

SF0092SW002

1 Page 1-line 7 After "specified;" insert "authorizing civil
2 actions;".
3

4 Page 16-after line 4 Insert and renumber as necessary:
5

6 "(c) In addition to the provisions of subsections (a), (b)
7 and (f) of this section, the following shall apply to civil actions
8 brought by private persons alleging violations of this act:
9

10 (i) A person may bring a civil action for a violation
11 of this act on behalf of the person and the state. Any action
12 brought under this subsection shall be brought on behalf of and in
13 the name of the state. The action may be dismissed only if the
14 attorney general or prosecuting authority give written consent to
15 the dismissal and the reasons for consenting;
16

17 (ii) A copy of the complaint and written disclosure of
18 substantially all material evidence and information the person
19 possesses shall be served on the attorney general or the
20 prosecuting authority. The complaint and written disclosure shall
21 be filed in camera, shall remain under seal for not less than sixty
22 (60) days and shall not be served on the defendant until the court
23 orders an action. The attorney general or prosecuting authority
24 may elect to intervene and proceed with the action not more than
25 sixty (60) days after the attorney general or prosecuting authority
26 receives the complaint and the material evidence regarding the
27 violation of this act;
28

29 (iii) The attorney general or prosecuting authority
30 may, for good cause shown, move the court for extensions of the
31 time that the complaint and written disclosure remain under seal.
32 Any motions under this paragraph may be supported by affidavits or
33 other submissions in camera. The defendant shall not be required
34 to respond to any complaint filed under this subsection until
35 twenty (20) days after the complaint and written disclosure are
36 unsealed and served upon the defendant;
37

38 (iv) Before the expiration of the sixty (60) day period
39 under paragraph (ii) of this subsection or any extensions obtained
40 under paragraph (iii) of this subsection, the attorney general or
41 prosecuting authority shall:
42

1 (A) Proceed with the action, where the action
2 shall be conducted by the attorney general or prosecuting
3 authority; or
4

5 (B) Notify the court that it declines to take over
6 the action, where the person bringing the action shall have the
7 right to commence and continue with the action.
8

9 (v) When a person brings an action under this
10 subsection, no person other than the attorney general or
11 prosecuting authority may intervene or bring a related action based
12 on the facts underlying the pending action.
13

14 (d) If the attorney general or prosecuting authority
15 proceeds with and prevails in a civil action brought by a private
16 person under subsection (c) of this section, that person shall
17 receive not less than fifteen percent (15%) but not more than
18 twenty-five percent (25%) of the proceeds of the action or
19 settlement of the claim, depending upon the extent that the person
20 contributed to the prosecution of the action. Any payment to a
21 person made under this subsection shall be made from the proceeds
22 of the civil action. The person shall also receive compensation
23 for reasonable expenses that were necessarily incurred by the
24 person, plus reasonable attorney fees and costs, all of which shall
25 be awarded against the defendant.
26

27 (e) If the attorney general or prosecuting authority does
28 not proceed with a civil action brought by a private person under
29 subsection (c) of this section and the person bringing the action
30 commences and continues with the action, the court may award the
31 defendant reasonable attorney fees and expenses if the defendant
32 prevails in the action and the court finds that the claim of the
33 person bringing the action was clearly frivolous, clearly
34 vexatious or brought primarily for purposes of harassment."
35

36 Page 16-line 6 Delete "(c)" and insert "(f)". NETHERCOTT