

Whistleblower Protection for Trucking Employees

Truck drivers and other employees working for commercial motor carriers are protected from retaliation for reporting or engaging in activities related to certain commercial motor vehicle safety, health or security conditions.

On August 3, 2007, the *Surface Transportation Assistance Act of 1982 (STAA)*, 49 U.S.C. Section 31105, was amended by *The Implementing Recommendations of the 9/11 Commission Act* (Public Law 110-53) to include new rights and remedies.

Covered Employees

STAA protects private sector drivers and other employees (including owner-operators, mechanics and freight handlers) of commercial motor carriers from retaliation for reporting certain commercial motor vehicle safety, health or security conditions and for engaging in certain other safety or security activities. To qualify for coverage, employees must be involved in activities directly affecting commercial motor vehicle safety or security.

A commercial motor vehicle covered by STAA is defined as any self-propelled or towed vehicle used on the highway in commerce principally to transport cargo or passengers. To qualify for coverage, such a vehicle must also:

- Have a vehicle rating or gross vehicle weight of at least 10,001 pounds; or,
- Be designed to transport more than 10 passengers, including the driver; or,
- Transport certain hazardous materials in a quantity requiring that the cargo be placarded.

Protected Activity

If you are covered under STAA, your employer may not discharge or in any other manner retaliate against you for filing a complaint or participating in a proceeding related to the violation of a commercial motor vehicle safety or security rule; cooperating with certain federal safety or security investigations; or providing information in an investigation by a federal, state or local regulatory or law enforcement agency relating to any accident or incident resulting in injury or death or property damage related to commercial motor vehicle transportation.

In addition, under STAA, your employer may not discharge or in any manner retaliate against you for

refusing to operate a vehicle because the operation would violate a federal commercial motor vehicle rule related to safety, health, or security because you had a reasonable apprehension of serious injury to yourself or to the public related to a vehicle's safety or security condition, or for reporting accurate hours of service (HOS). (For more detail about federal HOS requirements, please visit the Federal Motor Carrier Safety Administration's website, www.fmcsa.dot.gov).

Unfavorable Personnel Actions

Your employer may be found to have violated one of these statutes if your protected activity was a contributing factor in its decision to take unfavorable personnel action against you. Such actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours

Deadline for Filing a Complaint

Complaints must be filed within 180 days after the alleged unfavorable personnel action occurs.

How to File a Complaint

An employee, or representative of an employee, who believes that he or she has been retaliated against in violation of this statute may file a complaint with OSHA.

The complaint should be filed with the OSHA office responsible for enforcement activities in the geographical area where the employee resides or was employed, but may be filed with any OSHA officer or employee. For more information, call your closest OSHA Regional Office:

- *Boston* (617) 565-9860
- *New York* (212) 337-2378
- *Philadelphia* (215) 861-4900
- *Atlanta* (404) 562-2300
- *Chicago* (312) 353-2220
- *Dallas* (972) 850-4145
- *Kansas City* (816) 283-8745
- *Denver* (720) 264-6550
- *San Francisco* (415) 625-2547
- *Seattle* (206) 553-5930

Addresses, fax numbers and other contact information for these offices can be found on OSHA's website, www.osha.gov, and in local directories.

Complaints may be filed orally or in writing, by mail (we recommend certified mail), fax, or hand-delivered during business hours. The date postmarked, faxed or hand-delivered is considered the date filed.

Results of the Investigation

If the evidence supports your claim of retaliation and a settlement cannot be reached, OSHA will issue an order requiring your employer to reinstate you, pay back wages, restore benefits, and other possible relief to make you whole, including:

- Reinstatement with the same seniority and benefits.
- Payment of back pay with interest.
- Compensatory damages, including compensation

for special damages, expert witness fees, and reasonable attorney's fees.

- Punitive damages not to exceed \$250,000, in certain cases.

OSHA's findings and order become the final order of the Secretary of Labor, unless they are objected to within 30 days.

Hearings and Review

After OSHA issues its findings and order, either party may request an evidentiary hearing before an administrative law judge of the Department of Labor. The administrative law judge's decision and order may be appealed to the Department's Administrative Review Board for review.

Under STAA, the National Transit Systems Security Act (NTSSA) and the Federal Rail Safety Act (FRSA), if a final agency order is not issued within 210 days from the date your complaint is filed, then you may file a civil action in the appropriate U.S. district court.

To Get Further Information

For a copy of the statutes, the regulations, and other whistleblower information, go to www.osha.gov and click on the link for "Whistleblower Protection."

For information on the Office of Administrative Law Judges procedures, decisions and research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.

For more complete information:



U.S. Department of Labor

www.osha.gov

(800) 321-OSHA

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