

Whistleblower Protection for Employees in the Transportation Sector

Employees who work in several of the transportation industries, including employees of air carriers, commercial motor carriers, public transportation agencies, railroad carriers and pipeline facilities are protected from retaliation for reporting certain violations to their employers or the government.

Covered Employees

- *Surface Transportation Assistance Act of 1982 (STAA)*. [49 U.S.C. §31105] Provides protections for private sector drivers and other employees relating to the safety or security of commercial motor vehicles. Coverage includes all buses (for hire), hazardous material vehicle placarded and freight trucks with a gross vehicle weight of at least 10,001 pounds.
- *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21)*. [49 U.S.C. §42121] Provides protections for employees of air carriers, their contractors and subcontractors.
- *Pipeline Safety Improvement Act of 2002 (PSIA)*. [49 U.S.C. §60129] Provides protections for employees of pipeline facilities, their contractors and subcontractors.
- *National Transit Systems Security Act (NTSSA)*. [6 U.S.C. §1142] Provides protections for employees of public transportation agencies, their contractors and subcontractors.
- *Federal Rail Safety Act (FRSA)*. [49 U.S.C. §20109] Provides protections for employees of railroad carriers, their contractors and subcontractors.

Protected Activity

If your employer is covered under one of these Acts, it may not discharge or in any other manner retaliate against you because you provided information to, caused information to be provided to, or assisted in an investigation by a federal regulatory or law enforcement agency, a Member or committee of Congress or your company about an alleged violation of certain laws and regulations related to safety and security in your industry. Your employer may not discharge or in any manner retaliate against you because you filed, caused to be filed, participated in or assisted in a proceeding under one of these laws or regulations. Additional activities may be protected, depending on the Act.

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

Depending on the statute, complaints must be filed within 90 days (AIR21) or 180 days (STAA, PSIA, NTSSA, FRSA) after the alleged unfavorable personnel action occurs (that is, when you become aware of the retaliatory action).

How to File a Complaint

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.

Some complaints must be filed in writing and some may be filed verbally (call your local OSHA office for assistance). Written complaints may be filed 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.
- Compensation for special damages, reasonable attorney's fees, expert witness fees, and litigation costs.
- Punitive damages may be available under some statutes.

Under STAA, AIR21, NTSSA and FRSA, OSHA's findings and order become the final order of the Secretary of Labor, unless they are objected to within 30 days. Under PSIA, orders are final unless objected to within 60 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, NTSSA and 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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