



TEAMSTERS

Safety & Health FACTS

Safety and Health Department, International Brotherhood of Teamsters
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WHISTLEBLOWER PROTECTION for Trucking Employees

Workers have the right to complain to OSHA and seek an OSHA inspection. Section 11(c) of the Occupational Safety and Health Act of 1970 (OSH Act) authorizes OSHA to investigate employee complaints of employer discrimination against those who are involved in safety and health activities. OSHA also is responsible for enforcing whistleblower protection under ten other laws.

Surface Transportation Assistance Act of 1982 (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.*

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).

Types of Discrimination

Some examples of discrimination 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

Refusal of Work

When you believe working conditions are unsafe or unhealthful, you should call your employer's attention to the problem. If your employer does not correct the hazard or disagrees with you about the extent of the hazard, you may file a complaint with OSHA.

Refusing to do a job because of potentially unsafe workplace conditions is not ordinarily an employee right under the OSH Act. (Your union contract or state law may, however, give you this right, but OSHA cannot enforce it.) Refusing to work may result in disciplinary action by the employer. However, employees do have the right to refuse to do a job if they believe in good faith that they are exposed to an imminent danger. "Good faith" means that even if an imminent danger is not found to exist, the worker had reasonable grounds to believe that it did exist.

But you do not have the right to walk off the job because of unsafe conditions. If you do and your employer fires or disciplines you, OSHA may not be able to protect you. So, stay on the job until the problem can be resolved.

Your right to refuse to do a task is protected if all of the following conditions are met:

- ◆ Where possible, you have asked the employer to eliminate the danger, and the employer failed to do so; and
- ◆ You refused to work in "good faith." This means that you must genuinely believe that an imminent danger exists. Your refusal cannot be a disguised attempt to harass your employer or disrupt business; and
- ◆ A reasonable person (or most people) would agree that there is a real danger of death or serious injury; and
- ◆ There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.

When all of these conditions are met, you take the following steps:

- ◆ Ask your employer to correct the hazard;
- ◆ Ask your employer for other work;
- ◆ Remain at the worksite until ordered to leave by your employer.
- ◆ Tell your employer that you won't perform the work unless and until the hazard is corrected; and

How to Contact OSHA

Contact OSHA immediately, if your employer discriminates against you for refusing to perform the dangerous work. Complaints must be filed within 180 days after the alleged unfavorable personnel action occurs.

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 (certified mail recommended), fax, or hand-delivered during business hours. The date postmarked, faxed or hand-delivered is considered the date filed.

For a copy of the statutes, the regulations, and other whistleblower information, go to www.whistleblowers.gov.

The IBT Safety and Health Department is available to assist with filing your complaint.

For more information, please contact the Safety and Health Department at (202) 624-6960.