



TEAMSTERS

Safety & Health FACTS

Safety and Health Department, International Brotherhood of Teamsters
25 Louisiana Avenue, NW, Washington, DC 20001 ♦ 202/624-6960 ♦ ibtsafety@teamster.org

WHISTLEBLOWER PROTECTION for Railroad 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.

Under the *Federal Rail Safety Act (FRSA)* an employee of a railroad carrier and its contractors and subcontractors are protected from retaliation for reporting certain safety and security violations.

In general, under FRSA a railroad carrier is covered if it provides any form of non-highway ground transportation that runs on rails or electromagnetic guide ways, including commuter or other short-haul railroad passenger service in a metropolitan or suburban area, certain commuter railroad services, and high-speed ground transportation systems that connect metropolitan areas. However, rapid transit operations in an urban area that are not connected to the general railroad system of transportation are not covered.

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.