



Minnesota Workplace Safety Consultation

Overview of “OSHA” Whistleblower Protections

*Ben Wood, JD, MS, CSP
Safety Consultant Principal, MN OSHA WSC*

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Occupational Safety & Health Act



Section 11(c)(1):

“No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act.”

Minn. Stat. 182.654 - Subd 9. Discriminatory acts prohibited.

“No employee shall be discharged or in any way discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of the employee or others of any right afforded by this chapter. Discriminatory acts are subject to the sanctions contained in [Minn. Stat.] 182.669.”

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MN OSHA Directive ADM 3.6



Protected Conduct:

- Filed a **complaint** under or related to the Act;
- Instituted, or caused to be instituted, any **proceeding** under or related to the Act;
- **Testified**, or is about to testify in any proceeding under or related to the Act;
- **Refused to work** under conditions, which the employee reasonably believes present an immediate danger of death or serious physical harm to the employee, and the employee has requested that the employer correct the hazardous conditions but conditions remain uncorrected;
- Exercised on one's behalf, or on behalf of others, **any other right** afforded by the Act.
 - Reported injury/illness;
 - Reported safety/health hazard/concern;
 - Participated in OSHA Inspection/Investigation;

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MN OSHA Directive ADM 3.6



Reporting Discrimination:

*“Any employee who believes (s)he has been discharged or otherwise discriminated against by any person for exercising any right authorized under the provisions of Minn. Stat. §182.65 through 182.676 may, **within 30 days after such alleged discrimination occurs**, file a complaint with MNOSHA.”*

*“Complainants may file a **concurrent complaint with Federal OSHA**, under the Act.”*

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Remedies

Minn. Stat. 182.669 – Subd. 1:

Complaints alleging discriminatory acts; private actions.

*“In all cases where the administrative law judge finds that an employee has been discharged or otherwise discriminated against by any person because the employee has exercised any right authorized ... the **administrative law judge may order ...**”*

- 1) Back-Pay
- 2) Compensatory Damages
- 3) Rehiring of Employee
- 4) Reinstatement of Former Position
- 5) Fringe Benefits
- 6) Seniority
- 7) Costs, Disbursements, Witness Fees, Attorney’s Fees

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Other Whistleblower Protections

Federal Jurisdiction:

*“Authority to investigate and resolve discrimination complaints under these Acts has not been delegated to the State. All such complaints **must be referred to Federal OSHA** as there is no provision for state plan administration by MNOSHA.”*

- Asbestos Hazard Emerg. Response Act (AHERA);
- Clean Water Act (CWA);
- Clean Air Act (CAA);
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA);
- Federal Water Pollution Control Act (FWPCA);
- Safe Drinking Water Act (SDWA);
- Solid Waste Disposal Act (SWDA);
- Toxic Substances Control Act (TSCA);
- Intern. Safe Container Act (ISCA);
- Pipeline Safety Improv. Act (PSIA);
- Energy Reorganization Act (ERA);
- Federal Rail Safety Act (FRSA);
- National Transit Sys. Security Act (NTSSA);
- Seaman’s Protection Act (SPA);
- Surface Transportation Assist. Act (STAA);
- Affordable Care Act (ACA);
- Consumer Financial Protection Act (CFPA);
- Consumer Product Safety Improv. Act (CPSIA);
- FDA Food Safety Modern. Act (FSMA);

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Questions?

For Further Assistance:

Minnesota OSHA Workplace Safety Consultation

osha.consultation@state.mn.us

(651)284-5060 or toll-free at 1-800-657-3776

Ben Wood, JD, MS, CSP: ben.wood@state.mn.us