

The Federal Railroad Safety Act... and You

An Informational Guide for Railroad Workers

Compliments of the

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What is the New Law 20109?

2007 Amendments to the *Federal Railroad Safety Act* (FRSA), 49 U.S.C. §20109, is a new law that protects railroad employees. The law transferred enforcement of the whistleblower protections to the Occupational Safety and Health Administration (OSHA) and includes new rights, remedies and procedures. FRSA protects employees from retaliation for reporting injuries, certain safety concerns and security violations. It protects railroad employees from being fired, demoted, disciplined, or intimidated for engaging in certain **protected activities**.

2008 amendments, known as the *Rail Safety Improvement Act*, specifically prohibited discipline of employees, contractors or subcontractors for requesting medical treatment or for following medical treatment orders.

**Whistleblower Protection
for Railroad Workers
You are protected from
retaliation for reporting
potential safety or
security violations.**

What Activities or Actions are Protected?

The railroad may not discharge or in any other manner retaliate against you because you provided information or assistance 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 federal laws and regulations related to railroad safety and security, or about gross fraud, waste or abuse of funds intended for railroad safety or security. Your employer may not discharge or in any other 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.

You are protected from retaliation for reporting a work related illness, hazardous safety or security conditions, refusing to work under certain unsafe conditions or refusing to authorize the use of any safety or security-related equipment, track or structures because you believe that the equipment, track or structures are in a hazardous safety or security condition.

You may also be covered if you were perceived as having engaged in the activities described above.

You are also protected from retaliation, (including being brought up on charges in a disciplinary proceeding), or threatened retaliation for requesting medical or first-aid treatment, or for following doctor's orders.

Adverse Actions

The railroad may be found to have violated FRSA if your protected activity was a contributing factor in its decision to take adverse 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
- ⚡ Making threats
- ⚡ Reassignment affecting promotion prospects
- ⚡ Reducing pay or hours
- ⚡ Disciplining an employee for requesting medical or first-aid treatment
- ⚡ Disciplining an employee for following orders or a treatment plan of a treating physician
- ⚡ Forcing an employee to work against medical advice

Deadline for Filing a Complaint

Complaints must be filed with OSHA within 180 days after the alleged adverse action occurred. Time may be running out! Call our office immediately to protect your rights! If the evidence supports your claim of retaliation, your relief may include:

- ⚡ Reinstatement with the same seniority and benefits
- ⚡ Back-pay with interest
- ⚡ Compensatory damages, including compensation for special damages, expert witness fees and reasonable attorney's fees
- ⚡ Punitive damages of up to \$250,000

For more information, see <http://whistleblowers.gov/>

Let us help you secure YOUR rights under this new Law

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