

OSHA[®] FactSheet

Whistleblower Protection for Consumer Product Industry Workers

Individuals working in the consumer product industry are protected from retaliation for reporting potential consumer product safety violations to their employers or to the government.

On August 14, 2008, the *Consumer Product Safety Improvement Act* (CPSIA) (Public Law 110-314) was enacted, establishing retaliation protections (15 U.S.C. §2087) for workers in the consumer product industry.

Covered Employees

In general, CPSIA covers employees of consumer product manufacturers, importers, private labelers (owners of a brand or trademark on the private label of a consumer product), distributors and retailers.

A "consumer product," as defined under the Consumer Product Safety Act (CPSA), generally means any article, or component part thereof, produced or distributed: (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. Under the CPSA, the U.S. Consumer Product Safety Commission (CPSC) regulates about 15,000 types of consumer products used in the home, schools and recreation. Further information about the laws and related requirements enforced by the CPSC can be found on the CPSC's website at: <http://www.cpsc.gov/businfo/businfo.html>.

Protected Activity

If you are covered under CPSIA, your employer may not discharge you or in any other manner retaliate against you because you provided, caused to be provided or are about to provide or cause to be provided to the employer, the federal government, or the attorney general of a state information relating to any violation of, or any act or omission that you reasonably believe to be a violation of the CPSA or any other Act enforced by the CPSC, or any order, rule, regulation, standard or ban under any such Acts.

In addition, under CPSIA, your employer may not discharge or in any manner retaliate against you because you testified in, participated in or assisted in a proceeding under the laws, orders, rules, regulations, standards or bans enforced by the CPSC. Also, your employer may not discharge or in any manner retaliate against you because you objected to, or refused to participate in, any activity, policy, practice, or assigned task that you reasonably believed to be in violation of any provision of the CPSA or any other Act enforced by the CPSC, or any order, rule, regulation, standard or ban under any such Acts.

Adverse Actions

Your employer may be found to have violated CPSIA if your protected activity was a contributing factor in your employer's 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

Deadline for Filing a Complaint

Complaints must be filed within 180 days after the alleged adverse action occurred.

How to File a Complaint

A worker or his or her representative, who believes that he or she has been retaliated against in violation of this statute may file a complaint with OSHA. The complaint should be filed with the OSHA office responsible for enforcement activities in the geo-

graphic area where the worker lives or was employed, but may be filed with any OSHA officer or employee. For more information, call your nearest 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 the Whistleblower Protection Program's website, www.whistleblowers.gov, and in local directories. Complaints may be filed orally or in writing, by mail (we recommend certified mail), e-mail, fax, or hand-delivery during business hours. The date of postmark, delivery to a third party carrier, fax, e-mail, phone call, or hand-delivery is considered the date filed. If the worker or his or her representative is unable to file the complaint in English, OSHA will accept the complaint in any language.

Results of the Investigation

If the evidence supports your claim of retaliation and a settlement cannot be reached, OSHA will issue a preliminary order requiring the appropriate relief to make you whole. This generally includes:

- Reinstatement with the same seniority and benefits.
- Payment of back pay with interest.
- Compensatory damages, including compensation for special damages, expert witness fees, and reasonable attorney's fees.

OSHA's findings and preliminary order become a final order of the Secretary of Labor, unless a party objects within 30 days.

Hearings and Review

After OSHA issues its findings and preliminary order, either party may request a hearing before an administrative law judge of the U.S. Department of Labor. A party may seek review of the administrative law judge's decision and order before the Department's Administrative Review Board. Under CPSIA, if there is no final order issued by the Secretary of Labor within 210 days from the date your complaint was filed, or within 90 days after you receive a written determination, then you may be able to 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.whistleblowers.gov. 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