

SURVEY OF FEDERAL WHISTLEBLOWER AND ANTI-RETALIATION LAWS

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Overview

In general, whistleblowers are employees who report misconduct or illegal activity committed by their employers.

This report is a compilation of federal whistleblower and employee protection statutes. In addition to identifying laws that protect whistleblowers from retaliation, this report includes employee protection laws that prohibit retaliation against employees who engage in various protected activities, such as participating in an investigation or filing a complaint.

For each law, the popular name of the Act with a whistleblower or employee protection provision is provided. If the whistleblower protection provision was amended after original enactment, the date of those changes is noted. The *United States Code* or public law citation for the provision and an excerpt of the text of the provision is included. Listed below this text are protected individuals or classes identified in the provision(s). Lastly, the original congressional committee(s) to receive or consider the legislation are identified.

Where statutory text falls outside the scope of the topic, CRS has deleted portions of statutory provisions and replaced them with ellipses symbols (...) standing alone within a passage.

Methodology

CRS identified these statutes by reviewing various internal CRS products and federal government resources, and by searching the *United States Code Service* on Lexis Advance and the Statutes-at-Large on ProQuest Congressional for variations of (*whistleblower or (employee w/2 protection) or (((person or employer or employee or witness) /20 (fire or fired or discharg! or discriminat! or demot! or "personnel action" or retaliat!)) /20 (person or employees or applicants or witness))*).

This report uses the official version of the *United States Code* on the House Law Revision Counsel's website.¹

The committees identified for each law were found by searching [Congress.gov](https://www.congress.gov) and ProQuest Congressional for the public law number and reviewing committee reports. CRS identified persons or classes covered by the law from the Act's text.

Limitations

CRS searched and reviewed a range of laws to provide an extensive list of statutes. It is nonetheless possible that some relevant laws do not appear in this report for various reasons, including the following:

- Due to variations in database search functionalities, the searches may not have captured all relevant authorities currently in effect.
- Other unofficial versions of the *United States Code* may retrieve different results from various databases.
- The criteria used to identify statutes may have excluded relevant authorities that did not contain terms used in the database search, particularly if they did not expressly refer to *whistleblower*, *discharg!*, *discriminat!*, *demot!*, *"personnel action"* or *retaliate*.

- This survey may not contain very recent laws passed by Congress or provisions in appropriations bills that are not codified.

CRS excluded provisions where:

- Protections under a statute listed are extended to an additional group.¹
- Provisions address whistleblower protections for the military or intelligence community.³
- Statutes direct funding or appropriations without extending protections to individuals.
- Provisions detail procedures for filing complaints, enforcement, and remedies.⁴

Age Discrimination in Employment Act of 1967 (ADEA)

29 U.S.C. § 623(d). Prohibition of age discrimination.

(d) Opposition to unlawful practices; participation in investigations, proceedings, or litigation. It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because such individual, member or applicant for membership has opposed any practice made unlawful by this section, or because such individual, member or applicant for membership has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act.

Protects employees age 40 and older, 29 U.S.C. § 631(a).

Original Committee(s): Senate Committee on Labor and Public Welfare.

American Recovery and Reinvestment Act of 2009 (ARRA)

Pub. L. No. III-5, § 1553(a), 123 Stat. 297. Protecting State and Local Government and Contractor Whistleblowers.

(a) Prohibition of Reprisals.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—

- (1) gross mismanagement of an agency contract or grant relating to covered funds;
- (2) a gross waste of covered funds;
- (3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds;

² See, e.g., 2 U.S.C. § 1317 (extending prohibition of reprisal under certain acts to employees covered by the Congressional Accountability Act of 1995).

³ For information and additional reading on this topic, please see CRS Report R45345, *Intelligence Community Whistleblower Protections*, by Michael E. DeVine, and CRS In Focus IF11499, *Protecting Military Whistleblowers: 10 U. S. C. § 1034*, by Alan Ott.

⁴ For information regarding leaks to the press, see CRS Legal Sidebar WSLG1745, *The Law and Leaks to the Press*, by Charles Doyle.

- (4) an abuse of authority related to the implementation or use of covered funds; or
- (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Protects the employee.

Original Committee(s): House Appropriations, House Budget, House Transportation and Infrastructure

Americans with Disabilities Act of 1990 (ADA)

42 U.S.C. § 12203(a)-(b). Prohibition against retaliation and coercion.

(a) Retaliation. No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) Interference, coercion, or intimidation. It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

Protects individuals with and without disabilities.

Original Committee(s): Senate Labor and Human Resources.

Antitrust Criminal Penalty Enhancement and Reform Act of 2004 (ACPERA)

Text as added by the Antitrust Criminal Penalty Enhancement and Reform Permanent Extension Act (2020).

15 U.S.C. § 7a-3. Anti-retaliation protection for whistleblowers.

(a) Whistleblower protections for employees, contractors, subcontractors, and agents.—

(I) In general.— No employer may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against a covered individual in the terms and conditions of employment of the covered individual because of any lawful act done by the covered individual—

(A) to provide or cause to be provided to the Federal Government or a person with supervisory authority over the covered individual (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct) information relating to—

(i) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, the antitrust laws; or

(ii) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, another criminal law committed in conjunction with a potential violation of the antitrust laws or in conjunction with an investigation by the Department of Justice of a potential violation of the antitrust laws; or

(B) to cause to be filed, testify in, participate in, or otherwise assist a Federal Government investigation or a Federal Government proceeding filed or about to be filed (with any knowledge of the employer) relating to—

(i) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, the antitrust laws; or

(ii) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, another criminal law committed in conjunction with a potential violation of the antitrust laws or in conjunction with an investigation by the Department of Justice of a potential violation of the antitrust laws.

Protects any covered individual, meaning the employee, contractor, subcontractor, or agent of an employer, 15 U.S.C. § 7a-3(a)(3)(B)

Original Committee(s): House Judiciary, Senate Judiciary

Asbestos Hazard Emergency Response Act (AHERA)

15 U.S.C. § 2651(a). Public protection.

(a) Public protection

No State or local educational agency may discriminate against a person in any way, including firing a person who is an employee, because the person provided information relating to a potential violation of this subchapter to any other person, including a State or the Federal Government.

Protects persons, including the employee.

Original Committee(s): Senate Commerce, House Interstate and Foreign Commerce.

Asbestos School Hazard Detection and Control Act of 1980

20 U.S.C. § 3608. Employee protection.

No State or local educational agency receiving assistance under this Act may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

Protects the employee.

Original Committee(s): Senate Labor and Human Resources.

Civil Rights Act of 1964 (Title VII)

42 U.S.C. § 2000e-3(a). Other unlawful employment practices.

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings.

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

Protects the employee.

Original Committee(s): House Judiciary, House Rules.

Civil Service Reform Act of 1978

5 U.S.C. § 2303(a). Prohibited personnel practices in the Federal Bureau of Investigation.

(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to an employee in, or applicant for, a position in the Bureau as a reprisal for a disclosure of information—

(I) made—

(A) in the case of an employee, to a supervisor in the direct chain of command of the employee, up to and including the head of the employing agency;

- (B) to the Inspector General;
 - (C) to the Office of Professional Responsibility of the Department of Justice;
 - (D) to the Office of Professional Responsibility of the Federal Bureau of Investigation;
 - (E) to the Inspection Division of the Federal Bureau of Investigation;
 - (F) as described in section 7211;
 - (G) to the Office of Special Counsel; or
 - (H) to an employee designated by any officer, employee, office, or division described in subparagraphs (A) through (G) for the purpose of receiving such disclosures; and
- (2) which the employee or applicant reasonably believes evidences—
- (A) any violation of any law, rule, or regulation; or
 - (B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, "personnel action" means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of this title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policymaking, or policy-advocating character).

Protects the employee or applicant of the Federal Bureau of Investigation.

Original Committee(s): House Public Works and Transportation, Senate Environment and Public Works.

Clean Air Act (CAA) (as amended in 1977)

42 U.S.C. § 7622(a). Employee protection.

(a) Discharge or discrimination prohibited. No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

- (1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or a proceeding for the administration or enforcement of any requirement imposed under this Act or under any applicable implementation plan,
- (2) testified or is about to testify in any such proceeding, or
- (3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

Protects the employee, except one who deliberately causes a violation of the CAA, 42 U.S.C. §

7622(g). Original Committee(s): House Interstate and Foreign Commerce.

Commercial Motor Vehicle Safety Act of 1986 (CMVSA)

49 U.S.C. § 31105(a). Employee protections.

(a) Prohibitions. (I) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

- (A) (i) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order, or has testified or will testify in such a proceeding; or
- (ii) the person perceives that the employee has filed or is about to file a complaint or has begun or is about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order;
- (B) the employee refuses to operate a vehicle because—
 - (i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security; or

(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's hazardous safety or security condition;

(C) the employee accurately reports hours on duty pursuant to chapter 315;

(D) the employee cooperates, or the person perceives that the employee is about to cooperate, with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(E) the employee furnishes, or the person perceives that the employee is or is about to furnish, information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

(2) Under paragraph (I)(B)(ii) of this subsection, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the hazardous safety or security condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the hazardous safety or security condition.

Protects the employee.

Original Committee(s): House Judiciary, Senate Judiciary.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)

42 U.S.C. § 9610(a). Employee protection.

(a) Activities of employee subject to protection. No person shall fire or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has provided information to a State or to the Federal Government, filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

Protects the employee or any authorized representative of employees.

Original Committee(s): House Interstate and Foreign Commerce, House Ways and Means.

Consumer Financial Protection Act of 2010 (CFPA)

12 U.S.C. § 5567(a). Employee protection.

(a) In general. No covered person or service provider shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any covered employee or any authorized representative of covered employees by reason of the fact that such employee or representative, whether at the initiative of the employee or in the ordinary course of the duties of the employee (or any person acting pursuant to a request of the employee), has—

(1) provided, caused to be provided, or is about to provide or cause to be provided, information to the employer, the Bureau, or any other State, local, or Federal, government authority or law enforcement agency relating to any violation of, or any act or omission that the employee reasonably believes to be a violation of, any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;

(2) testified or will testify in any proceeding resulting from the administration or enforcement of any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;

(3) filed, instituted, or caused to be filed or instituted any proceeding under any Federal consumer financial law; or

(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any law, rule, order, standard, or prohibition, subject to the jurisdiction of, or enforceable by, the Bureau.

Protects any individual performing tasks related to the offering or provision of a consumer financial product or service, 12 U.S.C. § 5567(b).

Original Committee(s): House Agriculture, House Financial Services, House Energy and Commerce, House Judiciary, House Rules, House Budget, House Oversight and Government Reform, House Ways and Means, Senate Banking, Housing, and Urban Affairs.

Consumer Product Safety Act (CPSA)

Text as added by the Consumer Product Safety Improvement Act of 2008.

15 U.S.C. § 2087(a). Whistleblower protection.

(a) No manufacturer, private labeler, distributor, or retailer, may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is 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 the employee reasonably believes to be a violation of any provision of this Act or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts;

(2) testified or is about to testify in a proceeding concerning such violation;

(3) assisted or participated or is about to assist or participate in such a proceeding; or

(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts.

Protects the employee.

Original Committee(s): House Energy and Commerce, Senate Appropriations.

Criminal Antitrust Anti-Retaliation Act of 2019

Pub. L. No. 116-257, § 2. Amendment to ACPERA.

Sec. 2. Amendment to ACPERA.

The Antitrust Criminal Penalty Enhancement and Reform Act of 2004 (Public Law 108-237; 15 U.S.C. I note) is amended by inserting after section 215 the following:

"Sec. 216. Anti-Retaliation Protection for Whistleblowers.

"(a) Whistleblower Protections For Employees, Contractors, Subcontractors, and Agents.—

"(I) In General.—No employer may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against a covered individual in the terms and conditions of employment of the covered individual because of any lawful act done by the covered individual—

"(A) to provide or cause to be provided to the Federal Government or a person with supervisory authority over the covered individual (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct) information relating to—

"(i) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, the antitrust laws; or

"(ii) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, another criminal law committed in conjunction with a potential violation of the antitrust laws or in conjunction with an investigation by the

"(B) to cause to be filed, testify in, participate in, or otherwise assist a Federal Government investigation or a Federal Government proceeding filed or about to be filed (with any knowledge of the employer) relating to—

"(i) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, the antitrust laws; or

"(ii) any violation of, or any act or omission the covered individual reasonably believes to be a violation S. 2258-2 of, another criminal law committed in conjunction with a potential violation of the antitrust laws or in conjunction with an investigation by the Department of Justice of a potential violation of the antitrust laws.

"(2) Limitations On Protections.—Paragraph (I) shall not apply to any covered individual if—

"(A) the covered individual planned and initiated a violation or attempted violation of the antitrust laws;

"(B) the covered individual planned and initiated a violation or attempted violation of another criminal law in conjunction with a violation or attempted violation of the antitrust laws; or

"(C) the covered individual planned and initiated an obstruction or attempted obstruction of an investigation by the Department of Justice of a violation of the antitrust laws.

"(3) Definitions.—In this section:

"(A) Antitrust Laws.—The term 'antitrust laws' means section I or 3 of the Sherman Act (15 U.S.C. I and 3).

"(B) Covered Individual.—The term 'covered individual' means an employee, contractor, subcontractor, or agent of an employer.

"(C) Employer.—The term 'employer' means a person, or any officer, employee, contractor, subcontractor, or agent of such person.

"(D) Federal Government.—The term 'Federal Government' means—

"(i) a Federal regulatory or law enforcement agency; or

"(ii) any Member of Congress or committee of Congress.

"(E) Person.—The term 'person' has the same meaning as in subsection (a) of the first section of the Clayton Act (15 U.S.C. **12(a)**).

"(4) Rule of Construction.—The term 'violation', with respect to the antitrust laws, shall not be construed to include a civil violation of any law that is not also a criminal violation.

"(d) Rights Retained By Whistleblowers.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law, or under any collective bargaining agreement."

Protects "a covered individual," meaning the employee, contractor, subcontractor, or agent of an employer. Original Committee(s): None identified.

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (2010)⁵

7 U.S.C. § 26(h). Commodity whistleblower incentives and protection.

(h) Protection of whistleblowers.

⁵For additional information, see CRS Legal Sidebar LSB10015, *Blowing the Whistle Indoors: Can Internal Whistleblowers Sue for Retaliation Under Dodd-Frank?*, by Nicole Vanatko, and CRS Legal Sidebar LSB10093, *Supreme Court Interprets Dodd-Frank Whistleblower Protections: Implications for Securities Law and Beyond*, by Nicole Vanatko.

(I) Prohibition against retaliation.

(A) In general. No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower—

- (i) in providing information to the Commission in accordance with subsection (b); or
- (ii) in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.

(B) Enforcement.

(i) Cause of action. An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C), unless the individual who is alleging discharge or other discrimination in violation of subparagraph (A) is an employee of the Federal Government, in which case the individual shall only bring an action under section 1221 of title 5, United States Code.

(ii) Subpoenas. A subpoena requiring the attendance of a witness at a trial or hearing conducted under this subsection may be served at any place in the United States.

(iii) Statute of limitations. An action under this subsection may not be brought more than 2 years after the date on which the violation reported in subparagraph (A) is committed.

(C) Relief. Relief for an individual prevailing in an action brought under subparagraph (B) shall include—

- (i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;
- (ii) the amount of back pay otherwise owed to the individual, with interest; and
- (iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

(2) Confidentiality.

(A) In general. Except as provided in subparagraphs (B) and (C), the Commission, and any officer or employee of the Commission, shall not disclose any information, including information provided by a whistleblower to the Commission, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, United States Code, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any entity described in subparagraph (C). For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(B) Effect. Nothing in this paragraph is intended to limit the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

(C) Availability to government agencies.

(i) In general. Without the loss of its status as confidential in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary or appropriate to accomplish the purposes of this Act and protect customers and in accordance with clause (ii), be made available to—

- (I) the Department of Justice;
- (II) an appropriate department or agency of the Federal Government, acting within the scope of its jurisdiction;
- (III) a registered entity, registered futures association, or self-regulatory organization as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));
- (IV) a State attorney general in connection with any criminal investigation;
- (V) an appropriate department or agency of any State, acting within the scope of its jurisdiction; and
- (VI) a foreign futures authority.

(ii) Maintenance of information. Each of the entities, agencies, or persons described in clause (i) shall maintain information described in that clause as confidential, in accordance with the requirements in subparagraph (A).

(iii) Study on impact of FOIA exemption on Commodity Futures Trading Commission.

- (I) Study. The Inspector General of the Commission shall conduct a study—

- (aa) on whether the exemption under section 552(b)(3) of title 5, United States Code (known as the Freedom of Information Act) established in paragraph (2)(A) aids whistleblowers in disclosing information to the Commission;
- (bb) on what impact the exemption has had on the public's ability to access information about the Commission's regulation of commodity futures and option markets; and
- (cc) to make any recommendations on whether the Commission should continue to use the exemption.

(II) Report. Not later than 30 months after July 21, 2010, the Inspector General shall—

- (aa) submit a report on the findings of the study required under this clause to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives; and
- (bb) make the report available to the public through publication of a report on the website of the Commission.

(3) Rights retained. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

Protects the employee.

Original Committee(s): House Agriculture, House Financial Services, House Energy and Commerce, House Judiciary, House Rules, House Budget, House Oversight and Government Reform, House Ways and Means, Senate Banking , Housing, and Urban Affairs.

12 U.S.C. § 5567(a). Employee protection.

(a) In general. No covered person or service provider shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any covered employee or any authorized representative of covered employees by reason of the fact that such employee or representative, whether at the initiative of the employee or in the ordinary course of the duties of the employee (or any person acting pursuant to a request of the employee), has—

- (1) provided, caused to be provided, or is about to provide or cause to be provided, information to the employer, the Bureau, or any other State, local, or Federal, government authority or law enforcement agency relating to any violation of, or any act or omission that the employee reasonably believes to be a violation of, any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;
- (2) testified or will testify in any proceeding resulting from the administration or enforcement of any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;
- (3) filed, instituted, or caused to be filed or instituted any proceeding under any Federal consumer financial law; or
- (4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any law, rule, order, standard, or prohibition, subject to the jurisdiction of, or enforceable by, the Bureau.

Protects any individual performing tasks related to the offering or provision of a consumer financial product or service, 12 U.S.C. § 5567(b).

Original Committee(s): House Agriculture, House Financial Services, House Energy and Commerce, House Judiciary, House Rules, House Budget, House Oversight and Government Reform, House Ways and Means, Senate Banking , Housing, and Urban Affairs.

15 U.S.C. § 78u-6(h). Securities whistleblower incentives and protection.

(h) Protection of whistleblowers.

(I) Prohibition against retaliation.

(A) In general. No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower—

- (i) in providing information to the Commission in accordance with this section;

(ii) in initiating, testifying in, or assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information; or

(iii) in making disclosures that are required or protected under the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), including section 10A(m) of such Act (15 U.S.C. 78f(m)), section 15 I 3(e) of title 18, United States Code, and any other law, rule, or regulation subject to the jurisdiction of the Commission.

(B) Enforcement.

(i) Cause of action. An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C).

(ii) Subpoenas. A subpoena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.

(iii) Statute of limitations.

(I) In general. An action under this subsection may not be brought—

(aa) more than 6 years after the date on which the violation of subparagraph (A) occurred; or

(bb) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of subparagraph (A).

(II) Required action within 10 years. Notwithstanding subclause (I), an action under this subsection may not in any circumstance be brought more than 10 years after the date on which the violation occurs.

(C) Relief. Relief for an individual prevailing in an action brought under subparagraph (B) shall include—

(i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;

(ii) 2 times the amount of back pay otherwise owed to the individual, with interest; and

(iii) compensation for litigation costs, expert witness fees, and reasonable attorneys' fees. (2) Confidentiality.

(A) In general. Except as provided in subparagraphs (B) and (C), the Commission and any officer or employee of the Commission shall not disclose any information, including information provided by a whistleblower to the Commission, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, United States Code, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any entity described in subparagraph (C). For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section.

(B) Exempted statute. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(C) Rule of construction. Nothing in this section is intended to limit, or shall be construed to limit, the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

(D) Availability to Government agencies.

(i) In general. Without the loss of its status as confidential in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary to accomplish the purposes of this Act and to protect investors, be made available to—

(I) the Attorney General of the United States;

(II) an appropriate regulatory authority;

(III) a self-regulatory organization;

(IV) a State attorney general in connection with any criminal investigation;

(V) any appropriate State regulatory authority;

(VI) the Public Company Accounting Oversight Board;

(VII) a foreign securities authority; and

(VIII) a foreign law enforcement authority.

(ii) Confidentiality.

(I) In general. Each of the entities described in subclauses (I) through (VI) of clause (i) shall maintain such information as confidential in accordance with the requirements established under subparagraph (A).

(II) Foreign authorities. Each of the entities described in subclauses (VII) and (VIII) of clause (i) shall maintain such information in accordance with such assurances of confidentiality as the Commission determines appropriate.

(3) Rights retained. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

Protects the individual whistleblower.

Original Committee(s): House Agriculture, House Financial Services, House Energy and Commerce, House Judiciary, House Rules, House Budget, House Oversight and Government Reform, House Ways and Means, Senate Banking, Housing, and Urban Affairs.

Education for Economic Security Act (1984)

20 U.S.C. § 4018. Employee protection.

No State or local educational agency receiving assistance under this subchapter may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

Protects the employee.

Original Committee(s): House Education and Labor, House Science and Technology, Senate Labor and Human Resources.

Emergency Paid Sick Leave Act

Text as added by the Families First Coronavirus Response Act (2020).

Pub. L. No. 116-127, div. E, § 5104, 134 Stat. 195. Prohibited Acts.

It shall be unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who—

(1) takes leave in accordance with this Act; and

(2) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act (including a proceeding that seeks enforcement of this Act), or has testified or is about to testify in any such proceeding.

Protects the employee.

Original Committee(s): House Appropriations, House Budget, House Ways and Means.

Employee Polygraph Protection Act of 1988 (EPPA)

29 U.S.C. § 2002(4). Prohibitions on lie detector use.

Except as provided in sections 2006 and 2007 of this title, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(4) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against, any employee or prospective employee because—

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter,

- (B) such employee or prospective employee has testified or is about to testify in any such proceeding, or
- (C) of the exercise by such employee or prospective employee, on behalf of such employee or another person, of any right afforded by this chapter.

Protects the employee.

Original Committee(s): House Education and Labor.

Employee Retirement Income Security Act of 1974 (ERISA)

29 U.S.C. § 1140. Interference with protected rights.

It shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for exercising any right to which he is entitled under the provisions of an employee benefit plan, this subchapter, section 1201 of this title, or the Welfare and Pension Plans Disclosure Act, or for the purpose of interfering with the attainment of any right to which such participant may become entitled under the plan, this title, or the Welfare and Pension Plans Disclosure Act. It shall be unlawful for any person to discharge, fine, suspend, expel, or discriminate against any person because he has given information or has testified or is about to testify in any inquiry or proceeding relating to this Act or the Welfare and Pension Plans Disclosure Act. In the case of a multiemployer plan, it shall be unlawful for the plan sponsor or any other person to discriminate against any contributing employer for exercising rights under this Act or for giving information or testifying in any inquiry or proceeding relating to this Act before Congress. The provisions of section 1132 of this title shall be applicable in the enforcement of this section.

Protects a participant or beneficiary of the employee benefit plan.

Original Committee(s): House Education and Labor.

Empowering Olympic, Paralympic, and Amateur Athletes Act of 2020

36 U.S.C. § 220509(a)-(b). Resolution of disputes.

(a) General.-The corporation shall establish and maintain provisions in its constitution and bylaws for the swift and equitable resolution of disputes involving any of its members and relating to complaints of retaliation or the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, the Parapan American Games, world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation. In any lawsuit relating to the resolution of a dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, or the Parapan American Games, a court shall not grant injunctive relief against the corporation within 21 days before the beginning of such games if the corporation, after consultation with the chair of the Athletes' Advisory Council, has provided a sworn statement in writing executed by an officer of the corporation to such court that its constitution and bylaws cannot provide for the resolution of such dispute prior to the beginning of such games.

(b) Office of the Athlete Ombuds.-

(1) In general.-The corporation shall hire and provide salary, benefits, and administrative expenses for an ombudsman and support staff for athletes.

(2) Duties.-The Office of the Athlete Ombuds shall-

(A) provide independent advice to athletes at no cost about the applicable provisions of this chapter and the constitution and bylaws of the corporation, national governing bodies, international sports federations, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization, and with respect to the resolution of any dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, the Parapan American Games, world championship competition or other protected competition as defined in the constitution and bylaws of the corporation;

(B) assist in the resolution of athlete concerns;

- (C) provide independent advice to athletes with respect to-
 - (i) the role, responsibility, authority, and jurisdiction of the Center; and
 - (ii) the relative value of engaging legal counsel; and
 - (D)** report to the Athletes' Advisory Council on a regular basis.
- (3) Hiring procedures; vacancy; termination.-
- (A) Hiring procedures.-The procedure for hiring the ombudsman for athletes shall be as follows:
 - (i) The Athletes' Advisory Council shall provide the corporation's executive director with the name of I qualified person to serve as ombudsman for athletes.
 - (ii) The corporation's executive director shall immediately transmit the name of such person to the corporation's executive committee.
 - (iii) The corporation's executive committee shall hire or not hire such person after fully considering the advice and counsel of the Athletes' Advisory Council.
 - (B)** Vacancy.-If there is a vacancy in the position of the ombudsman for athletes, the nomination and hiring procedure set forth in this paragraph shall be followed in a timely manner.
 - (C) Termination.-The corporation may terminate the employment of an individual serving as ombudsman for athletes only if-
 - (i) the termination is carried out in accordance with the applicable policies and procedures of the corporation;
 - (ii) the termination is initially recommended to the corporation's executive committee by either the corporation's executive director or by the Athletes' Advisory Council; and
 - (iii) the corporation's executive committee fully considers the advice and counsel of the Athletes' Advisory Council prior to deciding whether or not to terminate the employment of such individual.
- (4) Confidentiality.-
- (A) In general.-The Office of the Athlete Ombuds shall maintain as confidential any information communicated or provided to the Office of the Athlete Ombuds in confidence in any matter involving the exercise of the official duties of the Office of the Athlete Ombuds.
 - (B)** Exception.-The Office of the Athlete Ombuds may disclose information described in subparagraph (A) as necessary to resolve or mediate a dispute, with the permission of the parties involved.
 - (C) Judicial and administrative proceedings.-
 - (i) In general.-The ombudsman and the staff of the Office of the Athlete Ombuds shall not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of the duties of the Office of the Athlete Ombuds.
 - (ii) Work product-Any memorandum, work product, notes, or case file of the Office of the Athlete Ombuds-
 - (I) shall be confidential; and
 - (II) shall not be-
 - (aa) subject to discovery, subpoena, or any other means of legal compulsion; or
 - (bb) admissible as evidence in a judicial or administrative proceeding.
 - (D)** Applicability.-The confidentiality requirements under this paragraph shall not apply to information relating to-
 - (i) applicable federally mandated reporting requirements;
 - (ii) a felony personally witnessed by a member of the Office of the Athlete Ombuds;
 - (iii) a situation, communicated to the Office of the Athlete Ombuds, in which an individual is at imminent risk of serious harm; or
 - (iv) a congressional subpoena.
 - (E) Development of policy.-
 - (i) In general.-Not later than **180** days after the date of the enactment of the Empowering Olympic, Paralympic, and Amateur Athletes Act of 2020, the Office of the Athlete Ombuds shall develop and publish in the Federal Register a confidentiality and privacy policy consistent with this paragraph.
 - (ii) Distribution.-The Office of the Athlete Ombuds shall distribute a copy of the policy developed under clause (i) to-

- (I) employees of the national governing bodies; and
 - (II) employees of the corporation.
- (iii) Publication by national governing bodies.-Each national governing body shall-
- (I) publish the policy developed under clause (i) on the internet website of the national governing body; and
 - (II) communicate to amateur athletes the availability of the policy.
- (5) Prohibition on retaliation.-No employee, contractor, agent, volunteer, or member of the corporation shall take or threaten to take any action against an athlete as a reprisal for disclosing information to or seeking assistance from the Office of the Athlete Ombuds.
- (6) Independence in carrying out duties.-The board of directors of the corporation or any other member or employee of the corporation shall not prevent or prohibit the Office of the Athlete Ombuds from carrying out any duty or responsibility under this section.

Protects members of the organization.

Original Committee(s): House Judiciary, Senate Judiciary.

Energy Reorganization Act of 1974 (ERA)

42 U.S.C. § 5851(a)(1). Employee protection.

(a) Discrimination against employee.

(I) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or person acting pursuant to a request of the employee)—

- (A) notified his employer of an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 201 I et seq.);
- (B) refused to engage in any practice made unlawful by this Act or the Atomic Energy Act of 1954, if the employee has identified the alleged illegality to the employer;
- (C) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this Act or the Atomic Energy Act of 1954;
- (D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this Act or the Atomic Energy Act of 1954, as amended;
- (E) testified or is about to testify in any such proceeding or;
- (F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this Act or the Atomic Energy Act of 1954, as amended.

Protects the employee.

Original Committee(s): Senate Environment and Public Works.

Fair Labor Standards Act of 1938 (FLSA)

29 U.S.C. § 215(a)(3). Prohibited acts; prima facie evidence.

(a) After the expiration of one hundred and twenty days from June 25, 1938, it shall be unlawful for any person—

(3) to discharge or in any other 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 chapter, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee[;]

Protects the employee.

Original Committee(s): House Labor, Senate Education and Labor

Family and Medical Leave Act of 1993 (FMLA)

29 U.S.C. § 2615. Prohibited acts.

(a) Interference with rights.

(1) Exercise of rights. It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subchapter.

(2) Discrimination. It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this subchapter.

(b) Interference with proceedings or inquiries. It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this subchapter;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this subchapter; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this subchapter.

Protects the employee.

Original Committee(s): House Education and Labor, House Post Office and Civil Service, House Administration.

FDA Food Safety Modernization Act (FDA Modernization Act) (2011)

21 U.S.C. § 399d(a). Employee protections.

(a) In general. No entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is 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 the employee reasonably believes to be a violation of any provision of this chapter or any order, rule, regulation, standard, or ban under this chapter, or any order, rule, regulation, standard, or ban under this chapter;

(2) testified or is about to testify in a proceeding concerning such violation;

(3) assisted or participated or is about to assist or participate in such a proceeding; or

(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this chapter, or any order, rule, regulation, standard, or ban under this chapter.

Protects the employee.

Original Committee(s): House Energy and Commerce, House Ways and Means.

Federal Mine Safety and Health Act of 1977 (FMSHA)

30 U.S.C. § 815(c)(1). Procedure for enforcement.

(c) Discrimination or interference prohibited; complaint investigation; determination; hearing.

(I) No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a standard published pursuant to section 811 of this title or because such miner, representative of miners or applicant for employment has 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 miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by this Act.

Protects the miner, representative of miners or applicant for employment.

Original Committee(s): House on Education and Labor, House Science and Technology, Senate Labor and Public Welfare

Federal Railroad Safety Act of 1970 (FRSA)

Text as added by the Implementing Recommendations of the 9/11 Commission Act of 2007.

49 U.S.C. § 20109(a)-(b). Employee protections.

(a) In general. A railroad carrier engaged in interstate or foreign commerce, a contractor or a subcontractor of such a railroad carrier, or an officer or employee of such a railroad carrier, may not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith act done, or perceived by the employer to have been done or about to be done—

(I) to provide information, directly cause information to be provided, or otherwise directly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or abuse of Federal grants or other public funds intended to be used for railroad safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95-452);

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to railroad safety or security;

(3) to file a complaint, or directly cause to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety or security, chapter 5I or 57 of this title, or to testify in that proceeding;

(4) to notify, or attempt to notify, the railroad carrier or the Secretary of Transportation of a work-related personal injury or work-related illness of an employee;

(5) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board;

(6) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

(7) to accurately report hours on duty pursuant to chapter 21 I.

(b) Hazardous safety or security conditions.

(I) A railroad carrier engaged in interstate or foreign commerce, or an officer or employee of such a railroad carrier, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

(A) reporting, in good faith, a hazardous safety or security condition;

- (B) refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or
 - (C) refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous safety or security condition, if the conditions described in paragraph (2) exist.
- (2) A refusal is protected under paragraph (I)(B) and (C) if—
- (A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;
 - (B) a reasonable individual in the circumstances then confronting the employee would conclude that—
 - (i) the hazardous condition presents an imminent danger of death or serious injury; and
 - (ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and
 - (C) the employee, where possible, has notified the railroad carrier of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.
- (3) In this subsection, only paragraph (I)(A) shall apply to security personnel employed by a railroad carrier to protect individuals and property transported by railroad.

Protects the employee.

Original Committee(s): House Judiciary, House Homeland Security, House Energy and Commerce, House Intelligence, House Foreign Affairs, House Transportation and Infrastructure, House Oversight and Government Reform, House Ways and Means, Senate Homeland Security and Governmental Affairs, Senate Commerce, Science, and Transportation, Senate Judiciary.

Federal Water Pollution Control Act (Clean Water Act)

Text as added by the Federal Water Pollution Control Act Amendments of 1972.

33 U.S.C. § I 367(a). Employee protection.

(a) Discrimination against persons filing, instituting, or testifying in proceedings under this chapter prohibited. No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

Protects the employee or any authorized representative of employees.

Original Committee(s): Senate Environment and Public Works, House Public Works, Senate Appropriations, House Transportation.

Homeland Security Act of 2002⁶

Text as added by the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014.

6 U.S.C. § 625(a)(6). Whistleblower protections.

(a) Procedure for reporting problems.

⁶By the Act of March 27, 2020, Pub. L. No. 116-136, Div. B, Title VI, § 16007, 134 Stat. 546: "Section 5 of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (Public Law 113-254; 6 U.S.C. 621 note) is amended by striking 'the date that is 5 years and 3 months after the effective date of this Act' and inserting 'July 23, 2020[.]'"

(6) Retaliation prohibited.

(A) In general. An owner or operator of a chemical facility of interest or agent thereof may not discharge an employee or otherwise discriminate against an employee with respect to the compensation provided to, or terms, conditions, or privileges of the employment of, the employee because the employee (or an individual acting pursuant to a request of the employee) submitted a report under paragraph **(I)**.

(B) Exception. An employee shall not be entitled to the protections under this section if the employee—

- (i) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or
- (ii) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.

Protects the employee.

Original Committee(s): House Homeland Security, House Energy and Commerce, Senate Homeland Security and Governmental Affairs.

Inspector General Act of 1978

5 U.S.C. App. § 7. Complaints by employees; disclosure of identity; reprisals.

(a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

Protects the employee.

Original Committee(s): House Government Operations, Senate Governmental Affairs.

International Safe Container Act (ISCA) (1977)

46 U.S.C. § 80507(a). Employee protection.

(a) Prohibition. A person may not discharge or discriminate against an employee because the employee has reported the existence of an unsafe container or a violation of this chapter or a regulation prescribed under this chapter.

Protects the employee.

Original Committee(s): House Judiciary, Senate Judiciary.

Legislative Branch Appropriations Act, 2006

2 U.S.C. § 1 909(c)(3). Inspector General for the United States Capitol Police.

(c) Duties.

(3) Investigations of complaints of employees and members.

(A) Authority. The Inspector General may receive and investigate complaints or information from an employee or member of the Capitol Police concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety, including complaints or information the investigation of which is under the jurisdiction of the Internal Affairs Division of the Capitol Police as of August 2, 2005.

(B) Nondisclosure. The Inspector General shall not, after receipt of a complaint or information from an employee or member, disclose the identity of the employee or member without the consent of the employee or member, unless required by law or the Inspector General determines such disclosure is otherwise unavoidable during the course of the investigation.

(C) Prohibiting retaliation. An employee or member of the Capitol Police who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee or member as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

Protects the employee or member.

Original Committee(s): House Appropriations, Senate Appropriations.

Longshore and Harbor Workers' Compensation Act (LHWCA) (1927)

33 U.S.C. § 948a. Discrimination against employees who bring proceedings; penalties; deposit of payments in special fund; civil actions; entitlement to restoration of employment and compensation, qualifications requirement; liability of employer for penalties and payments; insurance policy exemption from liability.

It shall be unlawful for any employer or his duly authorized agent to discharge or in any other manner discriminate against an employee as to his employment because such employee has claimed or attempted to claim compensation from such employer, or because he has testified or is about to testify in a proceeding under this Act. The discharge or refusal to employ a person who has been adjudicated to have filed a fraudulent claim for compensation is not a violation of this section. Any employer who violates this section shall be liable to a penalty of not less than \$1,000 or more than \$5,000, as may be determined by the deputy commissioner. All such penalties shall be paid to the deputy commissioner for deposit in the special fund as described in section 944, and if not paid may be recovered in a civil action brought in the appropriate United States district court. Any employee so discriminated against shall be restored to his employment and shall be compensated by his employer for any loss of wages arising out of such discrimination: *Provided*, That if such employee shall cease to be qualified to perform the duties of his employment, he shall not be entitled to such restoration and compensation. The employer alone and not his carrier shall be liable for such penalties and payments. Any provision in an insurance policy undertaking to relieve the employer from the liability for such penalties and payments shall be void.

Protects the employee.

Original Committee(s): House Education and Labor, Senate Labor and Public Welfare.

Migrant and Seasonal Agricultural Worker Protection Act (MSAWPA) (1983)

29 U.S.C. § 1855(a). Discrimination prohibited.

(a) Prohibited activities. No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause, 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 proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

Protects any migrant or seasonal agricultural worker. Original
Committee(s): House Education and Labor.

Moving Ahead for Progress in the 21st Century Act (MAP-21) (2012)

49 U.S.C. § 30171(a). Protection of employees providing motor vehicle safety information.

(a) Discrimination against employees of manufacturers, part suppliers, and dealerships. No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

- (1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;
- (2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;
- (3) testified or is about to testify in such a proceeding;
- (4) assisted or participated or is about to assist or participate in such a proceeding; or
- (5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of chapter 301 of this title, or any order, rule, regulation, standard, or ban under such provision.

Protects employees of manufacturers, part suppliers, and dealerships.

Original Committee(s): House Transportation and Infrastructure, House Ways and Means, House Natural Resources, House Science, Space, and Technology, House Energy and Commerce.

National Defense Authorization Act for Fiscal Year 1987

10 U.S.C. § 2409(a). Contractor employees: protection from reprisal for disclosure of certain information.

(a) Prohibition of reprisals.

(1) An employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of the following:

- (A) Gross mismanagement of a Department of Defense contract or grant, a gross waste of Department funds, an abuse of authority relating to a Department contract or grant, or a violation of law, rule, or regulation related to a Department contract (including the competition for or negotiation of a contract) or grant.
 - (B) Gross mismanagement of a National Aeronautics and Space Administration contract or grant, a gross waste of Administration funds, an abuse of authority relating to an Administration contract or grant, or a violation of law, rule, or regulation related to an Administration contract (including the competition for or negotiation of a contract) or grant.
 - (C) A substantial and specific danger to public health or safety.
- (2) The persons and bodies described in this paragraph are the persons and bodies as follows:
- (A) A Member of Congress or a representative of a committee of Congress.
 - (B) An Inspector General.
 - (C) The Government Accountability Office.
 - (D) An employee of the Department of Defense or the National Aeronautics and Space Administration, as applicable, responsible for contract oversight or management.

- (E) An authorized official of the Department of Justice or other law enforcement agency.
 - (F) A court or grand jury.
 - (G) A management official or other employee of the contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- (3) For the purposes of paragraph (1)—
- (A) an employee who initiates or provides evidence of contractor or subcontractor misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Department of Defense or National Aeronautics and Space Administration contract or grant shall be deemed to have made a disclosure covered by such paragraph; and
 - (B) a reprisal described in paragraph (1) is prohibited even if it is undertaken at the request of a Department or Administration official, unless the request takes the form of a nondiscretionary directive and is within the authority of the Department or Administration official making the request.

Protects the employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor.

Original Committee(s): House Appropriations, House Armed Services, Senate Commerce, Science, and Transportation, Senate Agriculture, Nutrition, and Forestry, Senate Appropriations.

National Defense Authorization Act for Fiscal Year 2013

41 U.S.C. § 4712(a). Enhancement of contractor protection from reprisal for disclosure of certain information.

(a) Prohibition of reprisals.

(1) In general. An employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

(2) Persons and bodies covered. The persons and bodies described in this paragraph are the persons and bodies as follows:

- (A) A Member of Congress or a representative of a committee of Congress.
- (B) An Inspector General.
- (C) The Government Accountability Office.
- (D) A Federal employee responsible for contract or grant oversight or management at the relevant agency.
- (E) An authorized official of the Department of Justice or other law enforcement agency.
- (F) A court or grand jury.
- (G) A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

(3) Rules of construction. For the purposes of paragraph (1)—

- (A) an employee who initiates or provides evidence of contractor, subcontractor, or grantee misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Federal contract or grant shall be deemed to have made a disclosure covered by such paragraph; and
- (B) a reprisal described in paragraph (1) is prohibited even if it is undertaken at the request of an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

Protects the employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor. Original Committee(s): House Armed Services, Senate Armed Services.

National Labor Relations Act (NLRA) (1935)

29 U.S.C. § 158(a)(4). Unfair labor practices.

(a) Unfair labor practices by employer. It shall be an unfair labor practice for an employer—

(4) to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act;

Protects the employee.

Original Committee(s): House Labor, Senate Education and Labor.

National Security Act of 1947

50 U.S.C. § 3234(b)-(c). Prohibited personnel practices in the intelligence community.

(b) Agency employees. Any employee of an agency who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of a covered intelligence community element as a reprisal for a lawful disclosure of information by the employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, the head of the employing agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the employing agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the employee reasonably believes evidences—

(1) a violation of any Federal law, rule, or regulation; or

(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) Contractor employees.

(1) Any employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of a covered intelligence community element who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any contractor employee as a reprisal for a lawful disclosure of information by the contractor employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, the head of the contracting agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the contracting agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the contractor employee reasonably believes evidences—

(A) a violation of any Federal law, rule, or regulation (including with respect to evidence of another employee or contractor employee accessing or sharing classified information without authorization); or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) A personnel action under paragraph (1) is prohibited even if the action is undertaken at the request of an agency official, unless the request takes the form of a nondiscretionary directive and is within the authority of the agency official making the request.

Protects the agency employee or the employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of a covered intelligence community element.

Original Committee(s): Senate Intelligence.

National Transit Systems Security Act of 2007 (NTSSA)

6 U.S.C. § 1 I 42(a). Public transportation employee protections.

(a) In general. A public transportation agency, a contractor or a subcontractor of such agency, or an officer or employee of such agency, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith act done, or perceived by the employer to have been done or about to be done—

(I) to provide information, directly cause information to be provided, or otherwise directly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to public transportation safety or security, or fraud, waste, or abuse of Federal grants or other public funds intended to be used for public transportation safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95-452)D];

(B) any Member of Congress, any Committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to public transportation safety or security;

(3) to file a complaint or directly cause to be brought a proceeding related to the enforcement of this section or to testify in that proceeding;

(4) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(5) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with public transportation.

Protects the employee.

Original Committee(s): House Homeland Security, House Energy and Commerce, House Judiciary, House Intelligence, House Foreign Affairs, House Transportation and Infrastructure, House Oversight and Government Reform, House Ways and Means, Senate Homeland Security and Governmental Affairs, Senate Commerce, Science, and Transportation, Senate Judiciary.

Occupational Safety and Health Act of 1970 (OSH Act)

29 U.S.C. § 660(c)(1). Judicial review.

(c) Discharge or discrimination against employee for exercise of rights under this chapter; prohibition; procedure for relief.

(I) 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.

Protects the employee.

Original Committee(s): House Education and Labor, Senate Labor and Public Welfare.

Patient Protection and Affordable Care Act (ACA) (2010)

29 U.S.C. § 218c(a). Protections for employees.

(a) Prohibition. No employer shall discharge or in any manner discriminate against any employee with respect to his or her compensation, terms, conditions, or other privileges of employment because the employee (or an individual acting at the request of the employee) has—

- (1) received a credit under section 36B of title 26 or a subsidy under section **18071** of title 42;
- (2) provided, caused to be provided, or is 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 the employee reasonably believes to be a violation of, any provision of this title (or an amendment made by this title);
- (3) testified or is about to testify in a proceeding concerning such violation;
- (4) assisted or participated, or is about to assist or participate, in such a proceeding; or
- (5) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this title (or amendment), or any order, rule, regulation, standard, or ban under this title (or amendment).

Protects the employee.

Original Committee(s): House Ways and Means.

42 U.S.C. § 1320b-25(d). Reporting to law enforcement of crimes occurring in Federal funded longterm care facilities.

(d) Additional penalties for retaliation.

(1) In general. A long-term care facility may not—

- (A) discharge, demote, suspend, threaten, harass, or deny a promotion or other employment-related benefit to an employee, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee; or
- (B) file a complaint or a report against a nurse or other employee with the appropriate State professional disciplinary agency because of lawful acts done by the nurse or employee, for making a report, causing a report to be made, or for taking steps in furtherance of making a report pursuant to subsection (b)(1).

(2) Penalties for retaliation. If a long-term care facility violates subparagraph (A) or (B) of paragraph (1) the facility shall be subject to a civil money penalty of not more than \$200,000 or the Secretary may classify the entity as an excluded entity for a period of 2 years pursuant to section 1320a-7(b) of this title, or both.

(3) Requirement to post notice. Each long-term care facility shall post conspicuously in an appropriate location a sign (in a form specified by the Secretary) specifying the rights of employees under this section. Such sign shall include a statement that an employee may file a complaint with the Secretary against a long-term care facility that violates the provisions of this subsection and information with respect to the manner of filing such a complaint.

Protects the employee.

Original Committee(s): House Ways and Means.

Pipeline Safety Improvement Act of 2002 (PSIA)

49 U.S.C. § 60129(a)(1). Protection of employees providing pipeline safety information. (a) Discrimination against employee.

(1) In general. No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

- (A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;
- (B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;
- (C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;
- (D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;
- (E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or
- (F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

Protects the employee.

Original Committee(s): House Transportation and Infrastructure, House Energy and Commerce, Senate Commerce, Science, and Transportation.

Safe Drinking Water Act (SDWA) (1974)

42 U.S.C. § 300j-9(i)(1). General provisions.

(i) Discrimination prohibition; filing of complaint; investigation; orders of Secretary; notice and hearing; settlements; attorneys' fees; judicial review; filing of petition; procedural requirements; stay of orders: exclusiveness of remedy; civil actions for enforcement of orders; appropriate relief; mandamus proceedings; prohibition inapplicable to undirected but deliberate violations.

(I) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

- (A) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this subchapter or a proceeding for the administration or enforcement of drinking water regulations or underground injection control programs of a State,
- (B) testified or is about to testify in any such proceeding, or
- (C) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this subchapter.

Protects the employee.

Original Committee(s): House Interstate and Foreign Commerce, Senate Commerce.

Sarbanes-Oxley Act of 2002 (SOX) (2002)

18 U.S.C. § 1514A(a). Civil action to protect against retaliation in fraud cases.

(a) Whistleblower protection for employees of publicly traded companies. No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company, or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or any officer, employee, contractor, subcontractor, or agent of such company or nationally recognized

statistical rating organization, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

(I) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any Member of Congress or any committee of Congress; or

(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

Protects employees of publicly traded companies.

Original Committee(s): House Financial Services, Senate Banking, Housing, and Urban Affairs.

Seaman's Protection Act (SPA) (as added in the Coast Guard Authorization Act of 1984)

46 U.S.C. § 2114(a)(1). Protection of seamen against discrimination.

(a)(I) A person may not discharge or in any manner discriminate against a seaman because—

(A) the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate Federal agency or department that the seaman believes that a violation of a maritime safety law or regulation prescribed under that law or regulation has occurred;

(B) the seaman has refused to perform duties ordered by the seaman's employer because the seaman has a reasonable apprehension or expectation that performing such duties would result in serious injury to the seaman, other seamen, or the public;

(C) the seaman testified in a proceeding brought to enforce a maritime safety law or regulation prescribed under that law;

(D) the seaman notified, or attempted to notify, the vessel owner or the Secretary of a work-related personal injury or work-related illness of a seaman;

(E) the seaman cooperated with a safety investigation by the Secretary or the National Transportation Safety Board;

(F) the seaman furnished information to the Secretary, the National Transportation Safety Board, or any other public official as to the facts relating to any marine casualty resulting in injury or death to an individual or damage to property occurring in connection with vessel transportation; or

(G) the seaman accurately reported hours of duty under this part.

Protects a seaman.

Original Committee(s): Senate Commerce, Science, and Transportation.

Solid Waste Disposal Act (SWDA) (as amended in 1976)

42 U.S.C. § 6971(a). Employee protection.

(a) General. No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or

representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter or of any applicable implementation plan.

Protects the employee or any authorized representative of employees.

Original Committee(s): House Interstate and Foreign Commerce, Senate Public Works.

Surface Mining Control and Reclamation Act of 1977 (SMCRA)

30 U.S.C. § 1293(a). Employee protection.

(a) Retaliation practices prohibited. No person shall discharge, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

Protects the employee or any authorized representative of employees.

Original Committee(s): House Interior and Insular Affairs, Senate Interior and Insular Affairs.

Taxpayer First Act (TFA) (2019)

26 U.S.C. § 7623(d). Expenses of detection of underpayments and fraud, etc.

(d) Civil action to protect against retaliation cases.

(I) Anti-retaliation whistleblower protection for employees. No employer, or any officer, employee, contractor, subcontractor, or agent of such employer, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment (including through an act in the ordinary course of such employee's duties) in reprisal for any lawful act done by the employee—

(A) to provide information, cause information to be provided, or otherwise assist in an investigation regarding underpayment of tax or any conduct which the employee reasonably believes constitutes a violation of the internal revenue laws or any provision of Federal law relating to tax fraud, when the information or assistance is provided to the Internal Revenue Service, the Secretary of the Treasury, the Treasury Inspector General for Tax Administration, the Comptroller General of the United States, the Department of Justice, the United States Congress, a person with supervisory authority over the employee, or any other person working for the employer who has the authority to investigate, discover, or terminate misconduct, or

(B) to testify, participate in, or otherwise assist in any administrative or judicial action taken by the Internal Revenue Service relating to an alleged underpayment of tax or any violation of the internal revenue laws or any provision of Federal law relating to tax fraud.

Protects the employee.

Original Committee(s): House Ways and Means, House Budget, House Financial Services.

Surface Transportation Assistance Act of 1982 (STAA)

49 U.S.C. § 31105(a). Employee protections.

(a) Prohibitions.

(I) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

(A)

(i) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order, or has testified or will testify in such a proceeding; or

(ii) the person perceives that the employee has filed or is about to file a complaint or has begun or is about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order;

(B) the employee refuses to operate a vehicle because—

(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security; or

(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's hazardous safety or security condition;

(C) the employee accurately reports hours on duty pursuant to chapter 315;

(D) the employee cooperates, or the person perceives that the employee is about to cooperate, with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(E) the employee furnishes, or the person perceives that the employee is or is about to furnish, information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

(2) Under paragraph (I)(B)(ii) of this subsection, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the hazardous safety or security condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the hazardous safety or security condition.

Protects the employee.

Original Committee(s): House Judiciary, Senate Judiciary.

Toxic Substances Control Act (TSCA) (1976)

15 U.S.C. § 2622(a). Employee protection.

(a) In general. No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter;

(2) testified or is about to testify in any such proceeding; or

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this chapter.

Protects the employee.

Original Committee(s): House Interstate and Foreign Commerce, Senate Commerce.

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)

38 U.S.C. § 4311(b). Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.

(b) An employer may not discriminate in employment against or take any adverse employment action against any person because such person (1) has taken an action to enforce a protection afforded any person under this chapter, (2) has testified or otherwise made a statement in or in connection with any proceeding under this chapter, (3) has assisted or otherwise participated in an investigation under this chapter, or (4) has exercised a right provided for in this chapter. The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

Protects the employee.

Original Committee(s): House Post Office and Civil Service, House Veterans' Affairs, Senate Veterans' Affairs.

United States-Mexico-Canada Agreement Implementation Act (2020)

19 U.S.C. § 4532(e)(5). Special rules for automotive goods.

(e) Verification of labor value content requirements.

(5) Whistleblower protections.

(A) Unlawful acts. It is unlawful to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against any person for—

(i) disclosing information to a Federal agency or to any person relating to a verification under this subsection; or

(ii) cooperating or seeking to cooperate in a verification under this subsection.

(B) Enforcement. The Secretary of the Treasury and the Secretary of Labor are authorized to take such actions under existing law, including imposing appropriate penalties and seeking appropriate injunctive relief, as may be necessary to ensure compliance with this subsection and as provided for in existing regulations.

Protects any person.

Original Committee(s): House Ways and Means, House Education and Labor, House Natural Resources, House Foreign Affairs, House Judiciary, House Budget, House Transportation and Infrastructure, House Financial Services, House Agriculture, House Energy and Commerce, House Oversight and Reform, Senate Appropriations, Senate Budget, Senate Commerce, Science, and Transportation, Senate Environment and Public Works, Senate Finance, Senate Foreign Relations, Senate Health, Education, Labor, and Pensions.

VA Patient Protection Act of 2016

38 U.S.C. § 731(c). Adverse actions against supervisory employees who commit prohibited personnel actions relating to whistleblower complaints.

(c) Prohibited personnel action described. A prohibited personnel action described in this subsection is any of the following actions:

(I) Taking or failing to take a personnel action in violation of section 2302 of title 5 against an employee relating to the employee—

(A) making a whistleblower disclosure to the Assistant Secretary for Accountability and Whistleblower Protection, the Inspector General of the Department, the Special Counsel, or Congress;

(B) providing information or participating as a witness in an investigation of a whistleblower disclosure made to the Assistant Secretary for Accountability and Whistleblower Protection, the Inspector General of the Department, the Special Counsel, or Congress;

(C) participating in an audit or investigation by the Comptroller General of the United States;

(D) refusing to perform an action that is unlawful or prohibited by the Department; or

(E) engaging in communications that are related to the duties of the position or are otherwise protected.

- (2) Preventing or restricting an employee from making an action described in any of subparagraphs (A) through (E) of paragraph (1).
- (3) Conducting a negative peer review or opening a retaliatory investigation because of an activity of an employee that is protected by section 2302 of title 5.
- (4) Requesting a contractor to carry out an action that is prohibited by section 4705(b) or section 47 I 2(a)(I) of title 41, as the case may be.

Protects the employee.

Original Committee(s): House Appropriations, Senate Appropriations.

Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21) (2000)

49 U.S.C. § 4212I(a). Protection of employees providing air safety information.

(a) Discrimination against airline employees. No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

- (1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;
- (2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;
- (3) testified or is about to testify in such a proceeding; or
- (4) assisted or participated or is about to assist or participate in such a proceeding.

Protects airline employees.

Original Committee(s): House Transportation and Infrastructure, House Budget, House Rules, Senate Commerce, Science, and Transportation.

Whistleblower Protection Act of 1989 (WPA)

Text as amended by the Whistleblower Protection Enhancement Act (WPEA) of 2012.

5 U.S.C. § 2302(b)(8)-(9). Prohibited personnel practices.

(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

- (8)** take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of—
 - (A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—
 - (i) any violation of any law, rule, or regulation, or
 - (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs;

- (B) any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—
- (i) any violation (other than a violation of this section) of any law, rule, or regulation, or
 - (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or
- (C) any disclosure to Congress (including any committee of Congress) by any employee of an agency or applicant for employment at an agency of information described in subparagraph (B) that is—
- (i) not classified; or
 - (ii) if classified—
 - (I) has been classified by the head of an agency that is not an element of the intelligence community (as defined by section 3 of the National Security Act of 1947 (50 U.S.C. 3003)); and
 - (II) does not reveal intelligence sources and methods[;]
- (9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—
- (A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation—
 - (i) with regard to remedying a violation of paragraph (8); or
 - (ii) other than with regard to remedying a violation of paragraph (8);
 - (B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A) (i) or (ii);
 - (C) cooperating with or disclosing information to the Inspector General (or any other component responsible for internal investigation or review) of an agency, or the Special Counsel, in accordance with applicable provisions of law; or
 - (D) refusing to obey an order that would require the individual to violate a law, rule, or

regulation; Protects federal employees.

Original Committee(s): House Homeland Security, House Intelligence, House Oversight and Government Reform, Senate Homeland Security and Governmental Affairs.

William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (2020)

Pub. L. No. 116-283, div. A, tit. XI, subtit. B, § 1138. Nondisclosure agreement limitation.

Section 2302(b)(1) of title 5, United States Code, is amended—

- (1) by striking "agreement does not" and inserting the following: "agreement—
 - "(A) does not";
- (2) in subparagraph (A), as so designated, by inserting "or the Office of Special Counsel" after "Inspector General"; and
- (3) by adding at the end the following: "(B) prohibits or restricts an employee or applicant for employment from disclosing to Congress, the Special Counsel, the Inspector General of an agency, or any other agency component responsible for internal investigation or review any information that relates to any violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or any other whistleblower protection; or".

Pub. L. No. 116-283, div. D, tit. LXIII, § 6314. Updating whistleblower incentives and protection.

(a) **WHISTLEBLOWER INCENTIVES AND PROTECTION.—Section** 5323 of title 31, United States Code, is amended to read as follows:

"§ 5323. Whistleblower incentives and protections

"(a) **DEFINITIONS.—**In this section:

"(5) WHISTLEBLOWER.—

"(A) IN GENERAL.—The term 'whistleblower' means any individual who provides, or 2 or more individuals acting jointly who provide, information relating to a violation of this subchapter or subchapter III to the employer of the individual or individuals, including as part of the job duties of the individual or individuals, or to the Secretary or the Attorney General.

"(B) SPECIAL RULE.—Solely for the purposes of subsection (g)(I), the term 'whistleblower' includes any individual who takes, or 2 or more individuals acting jointly who take, an action described in subsection (g)(I)(A).

"(g) PROTECTION OF WHISTLEBLOWERS.—

"(I) PROHIBITION AGAINST RETALIATION.—No employer may, directly or indirectly, discharge, demote, suspend, threaten, blacklist, harass, or in any other manner discriminate against a whistleblower in the terms and conditions of employment or post-employment because of any lawful act done by the whistleblower—

"(A) in providing information in accordance with this section to—

"(i) the Secretary or the Attorney General;

"(ii) a Federal regulatory or law enforcement agency; ' '(iii) any Member of Congress or any committee of Congress; or

"(iv) a person with supervisory authority over the whistleblower, or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct; or

"(B) in initiating, testifying in, or assisting in any investigation or judicial or administrative action of the Department of the Treasury or the Department of Justice based upon or related to the information described in subparagraph (A); or

"(C) in providing information regarding any conduct that the whistleblower reasonably believes constitutes a violation of any law, rule, or regulation subject to the jurisdiction of the Department of the Treasury, or a violation of section 1956, 1957, or 1960 of title 18 (or any rule or regulation under any such provision), to—

"(i) a person with supervisory authority over the whistleblower at the employer of the whistleblower; or

"(ii) another individual working for the employer described in clause (i) who the whistleblower reasonably believes has the authority to—

"(I) investigate, discover, or terminate the misconduct; or "(II) take any other action to address the misconduct.

"(2) ENFORCEMENT.—Any individual who alleges discharge or other discrimination, or is otherwise aggrieved by an employer, in violation of paragraph (I), may seek relief by—

"(A) filing a complaint with the Secretary of Labor in accordance with the requirements of this subsection; or

"(B) if the Secretary of Labor has not issued a final decision within 180 days of the filing of a complaint under subparagraph (A), and there is no showing that such a delay is due to the bad faith of the claimant, bringing an action against the employer at law or in equity in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

"(D) AVAILABILITY TO GOVERNMENT AGENCIES.—

"(i) IN GENERAL—Without the loss of its status as confidential in the hands of the Secretary or the Attorney General, as applicable, all information referred to in subparagraph (A) may, in the discretion of the appropriate such official, when determined by that official to be necessary to accomplish the purposes of this subchapter, be made available to—

"(I) any appropriate Federal authority;

"(II) a State attorney general in connection with any criminal investigation;

"(III) any appropriate State regulatory authority; and

"(IV) a foreign law enforcement authority.

"(ii) CONFIDENTIALITY.—

"(I) IN GENERAL—Each of the entities described in subclauses (I) through (III) of clause (i) shall maintain such information as confidential in accordance with the requirements established under subparagraph (A).

"(II) FOREIGN AUTHORITIES.—Each entity described in clause (i)(IV) shall maintain such information in accordance with such assurances of confidentiality as determined by the Secretary or Attorney General, as applicable.

"(5) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law or under any collective bargaining agreement.

(b) REPEAL OF SECTION 5328 OF TITLE 31.—Section 5328 of title 31, United States Code, is repealed.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended—

(I) by striking the item relating to section 5323 and inserting the following: "5323. Whistleblower incentives and protections."; and (2) by striking the item relating to section 5328.

Pub. L. No. 116-283, div. G, tit. LVXXXI, subtit. F, § 8285. Sense of Congress and report on implementation of policy on issuance of warrants and subpoenas and whistleblower protections by agents of the Coast Guard Investigative Service.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(I) Coast Guard components with investigative authority should exercise such authority with due respect for the rights of whistleblowers; and

(2) the Commandant should—

(A) ensure compliance with the legal requirements intended to protect whistleblowers;

(B) seek to shield the disclosure of the identities of whistleblowers; and

(C) create an environment in which whistleblowers do not fear reprisal for reporting misconduct.

(b) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the policy of the Coast Guard on the issuance of warrants and subpoenas and whistleblower protections by agents of the Coast Guard Investigative Service.

(c) ELEMENTS.—The report required by subsection (b) shall include the following:

(I) A discussion of current and any new policy of the Coast Guard on the issuance of warrants and subpoenas and whistleblower protections by agents of the Coast Guard Investigative Service, including Coast Guard Investigative Service Criminal Investigation Operating Procedure CIOP 2019-02, and the differences between such current policies and new policies.

(2) A plan (including milestones) for the implementation of the following:

(A) Incorporation of Coast Guard Investigative Service Criminal Investigation Operating Procedure CIOP 2019— 02 into the next revision of the relevant Coast Guard investigative manual.

(B) Training on the policy described in paragraph (I) for the following:

(i) Agents and legal counsel of the Coast Guard Investigative Service.

(ii) Personnel of the Office of General Law.

(iii) Relevant Coast Guard headquarters personnel.

(iv) Such other Coast Guard personnel as the Commandant considers appropriate.

Protects any individual who provides, or 2 or more individuals acting jointly who provide, information relating to a violation of this subchapter or subchapter III to the employer of the individual or individuals, § 6314(a)(5).

Original Committee(s): House Armed Services.

