

Whistleblower Protection for Consumer Product Industry Workers

Individuals working in the consumer product industry are protected from retaliation for reporting potential consumer product safety violations to their employers or to the government by the Consumer Product Safety Improvement Act (CPSIA).

Covered Employees

Under the CPSIA, employees of consumer product manufacturers, importers, private labelers (owners of brand or trademark on the private label of a consumer product), distributors, and retailers are protected from retaliation for engaging in protected activity.

A “consumer product” under the CPSIA generally means any article, or component of an article, produced or distributed for sale to a consumer or for personal use, consumption, or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. However, some types of products (such as motor vehicles) are regulated by other federal agencies and are excluded from the applicable definition of “consumer product.”

Protected Activity

A CPSIA-covered employer may not discharge or otherwise retaliate against an employee because the employee:

- Provided, caused to be provided, or is about to provide the employer, the federal government or the attorney general of a state information relating to any violation of federal consumer product safety law.
- Testified in, participated in, or assisted in a proceeding related to such a violation.
- Objected to or refused to participate in conduct the employee believed to be in violation of federal consumer product safety law.

For purposes of the CPSIA’s protections, federal consumer product safety law includes the Consumer Product Safety Act, as amended by CPSIA, 15 U.S.C. § 2051 et seq., other laws enforced by the Consumer Product Safety Commission, and orders, rules, regulations, standards, or bans under any of these laws.

What Is Retaliation?

Retaliation is an adverse action against an employee because of activity protected by CPSIA. Retaliation can involve several types of actions, such as:

- Firing or laying off
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation or harassment
- Making threats
- Reassignment to a less desirable position or actions affecting promotion prospects
- Reducing pay or hours
- More subtle actions, such as isolating, ostracizing, mocking, or falsely accusing the employee of poor performance
- Blacklisting (intentionally interfering with an employee’s ability to obtain future employment)
- Constructive discharge (quitting when an employer makes working conditions intolerable due to the employee’s protected activity)
- Reporting the employee to the police or immigration authorities

Deadline for Filing Complaints

Complaints must be filed within 180 days after the alleged retaliatory action (that is, when the employee is notified of the action).

How to File a CPSIA Complaint

An employee, or his or her representative, can file a CPSIA complaint with OSHA by visiting or calling his or her local OSHA office, sending a written complaint to the nearest OSHA office, or filing a complaint online. No particular form is required, and complaints may be submitted in any language.

Written complaints may be filed by fax, electronic communication, telephone call, hand delivery during business hours, U.S. mail (confirmation services recommended), or other third-party commercial carrier.

The date of the postmark, fax, electronic communication, telephone call, hand delivery, delivery to a third-party commercial carrier, or in-person filing with an OSHA office is considered the date filed.

To file a complaint electronically, please visit: www.osha.gov/whistleblower/WBComplaint.html.

To contact an OSHA area office, please call 1-800-321-OSHA (6742) to be connected to the closest area office. Or visit our website at www.osha.gov/contactus/bystate and click on your state to find your local OSHA office address and contact information.

When OSHA receives a complaint, the agency will first review it to determine whether certain basic requirements are met, such as whether the complaint was filed on time. If so, the complaint will then be investigated according to the procedures required by 29 CFR Part 1983.

Results of the Investigation

If the evidence supports an employee's claim of retaliation and a settlement cannot be reached, OSHA will issue an order requiring the employer, as appropriate, to put the employee back to work, pay lost wages, restore benefits, and provide other possible relief. The type of relief will depend on the facts of the case. If the evidence does not support the employee's complaint, OSHA will dismiss the complaint.

After OSHA issues a decision, the employer and/or the employee may request a full hearing before an administrative law judge of the Department of Labor. The administrative law judge's

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decision may be appealed to the Department's Administrative Review Board (ARB). The ARB's decision is subject to review by the Secretary of Labor, and a final decision may be appealed to a court of appeals. The employee may also file suit in federal district court if the Department does not issue a final order within 210 days from the date the complaint was filed with OSHA, or within 90 days after the employee receives a written determination from OSHA. See 15 U.S.C. § 2087(b)(3)-(4).

To Get Further Information

For a copy of the CPSIA whistleblower provision, 15 U.S.C. § 2087, the regulations, 29 CFR Part 1983, and other information, go to www.whistleblowers.gov.

OSHA's Whistleblower Protection Program enforces the whistleblower provisions of more than twenty federal whistleblower laws. To learn more about the whistleblower statutes that OSHA enforces, view our "Whistleblower Statutes Summary Chart" at www.whistleblowers.gov/whistleblower_acts-desk_reference.

For information on the Office of Administrative Law Judges' procedures and case law research materials, go to www.oalj.dol.gov and click on the link for "Whistleblower."

For information about the laws and related requirements enforced by the Consumer Product Safety Commission (CPSC), please visit the CPSC's website at: www.cpsc.gov/Regulations-Laws--Standards.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to help ensure these conditions for America's workers by setting and enforcing standards, and providing training, education, and assistance. For more information, visit www.osha.gov.



U.S. Department of Labor



DWPP FS-4118 06/2021