



WEBINAR

ENFORCING YOUR RIGHTS UNDER THE STAA

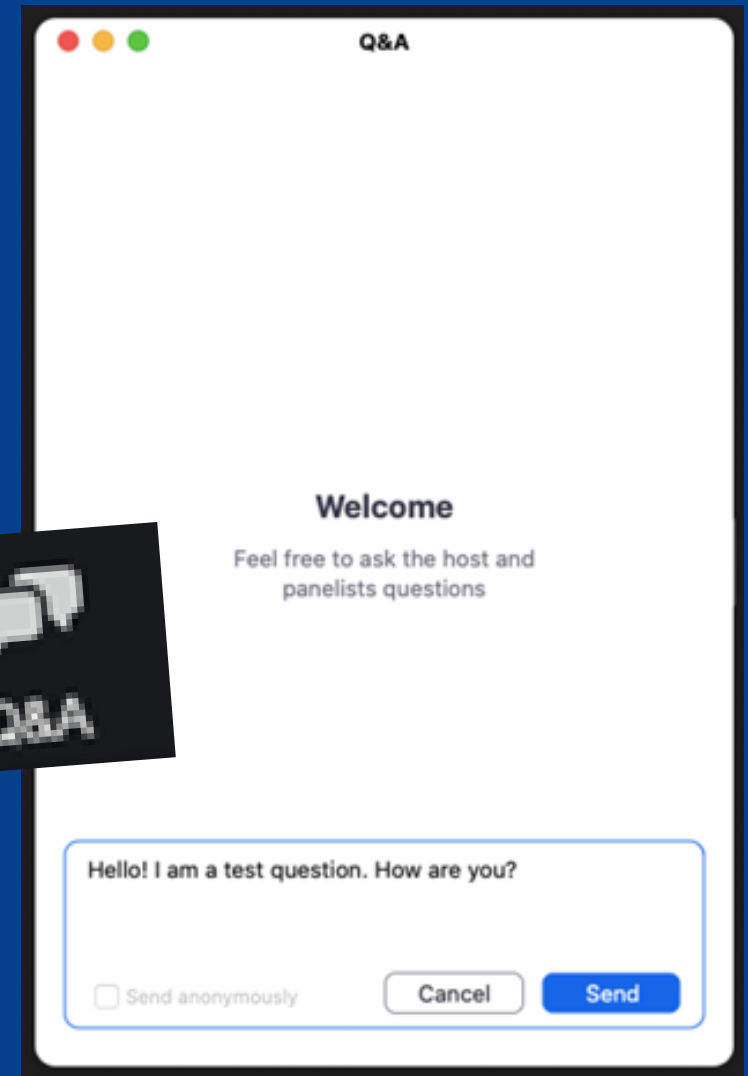
SATURDAY, MARCH 9

2 PM ET / 1 PM CT / 12 PM MT / 11 AM PT

Q&A

**Look for the Q&A box
at the bottom of your
screen.**

**Click it and type your
question into the
dialogue box.**



Q&A

Welcome

Feel free to ask the host and panelists questions

Hello! I am a test question. How are you?

☐ Send anonymously

Cancel

Send

WHISTLEBLOWER ACTIONS IN THE MOTOR CARRIER INDUSTRY



With Attorney Paul O. Taylor,
Truckers Justice Center

WHO'S COVERED?

The transportation must be in interstate commerce, but not necessarily crossing state lines.

- ✓ Freight
- ✓ Carhaul
- ✓ UPS Feeder Drivers and Package Car (if vehicles are rated for, or weight 10,001 pounds or more)
- ✓ Tankhaul
- ✓ Beverage, grocery, bakery drivers (if vehicles are over 10,000 lbs.)



Surface Transportation Assistance Act (STAA) Overview

The STAA prohibits an employer from retaliating against an employee because the employee engages in one or more of the following "protected activities"



Protected Activities

- ✓ Filing complaints “related to” a violation of a commercial vehicle safety or security regulation (or being perceived as filing a complaint);
- ✓ Being a witness in a proceeding “related to” a violation of a commercial vehicle safety or security regulation;
- ✓ Refusing to drive in violation of a commercial vehicle safety regulation;
- ✓ Refusing to drive based on a “reasonable apprehension of serious injury”
- ✓ Accurately recording on-duty time on hours of service logs



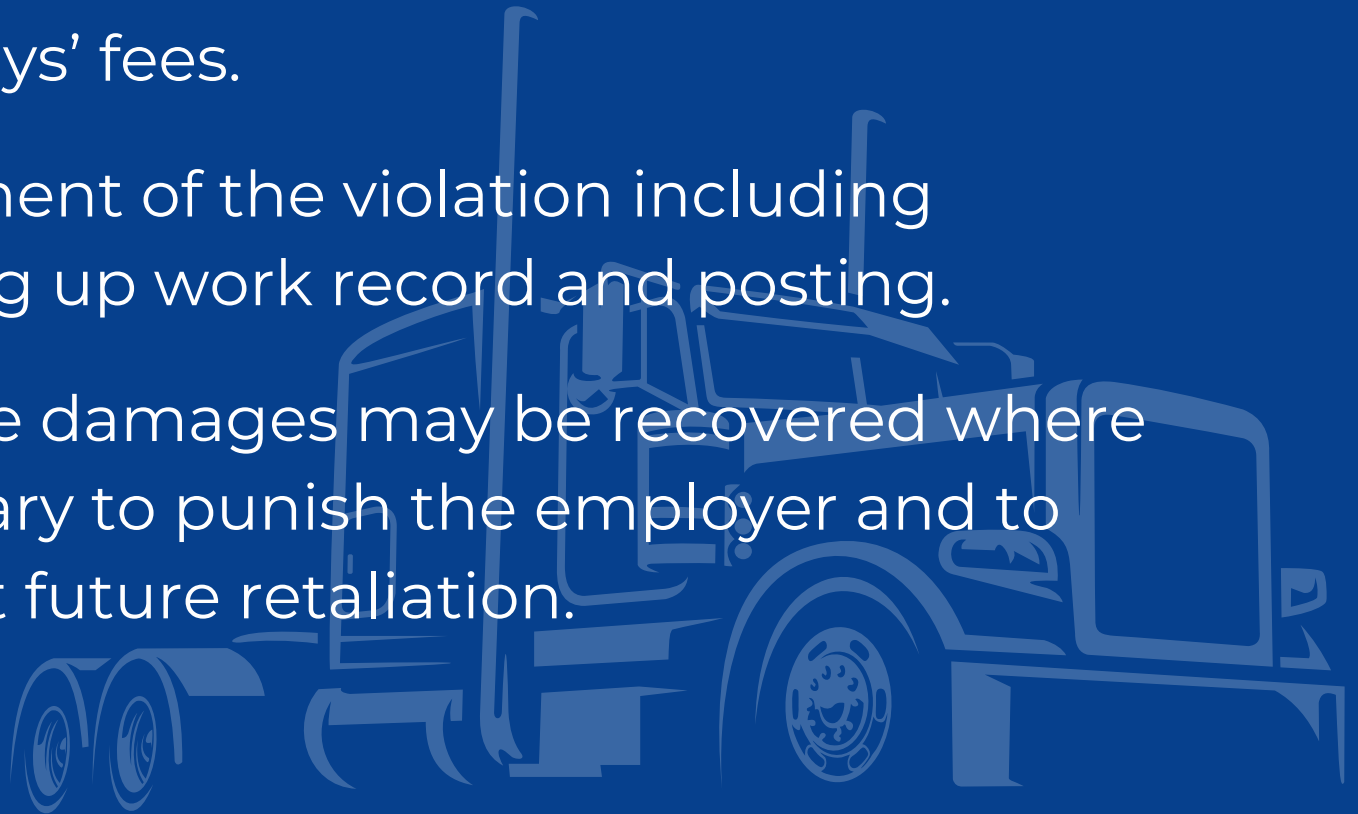
Burdens of Proof

The employee must prove that a protected activity was a contributing factor in an adverse action taken against him. To get off the hook the employer must show by clear and convincing evidence that it would have taken the adverse action absent protected activity.



Relief Available Under the STAA

- ✓ Reinstatement (if fired)
- ✓ Back pay and compensatory damages for mental and emotional pain.
- ✓ Attorneys' fees.
- ✓ Abatement of the violation including cleaning up work record and posting.
- ✓ Punitive damages may be recovered where necessary to punish the employer and to prevent future retaliation.



Specific Protected Activity: Safety Complaints

- ✓ **Complaints to law enforcement** if they are “related to” a violation of a commercial vehicle safety regulation.
 - ✓ **Threats to enforce safety regulation.**
 - ✓ **Testimony in grievance hearings** when the hearing is “related to” a violation of a commercial vehicle safety regulation is protected.
 - ✓ **Gathering of evidence** to support a complaint
 - ✓ **Vehicle Inspections and Inspection Reports.**
 - ✓ **Complaints made to management.** Complaints made to non-supervisory employees are not protected.
- 

**Specific Protected Activity:
Refusals to Drive in Violation of a FMCSR**

Refusal to drive because of fatigue. Merely stating that you are fatigued is insufficient. The driver must point to cause.

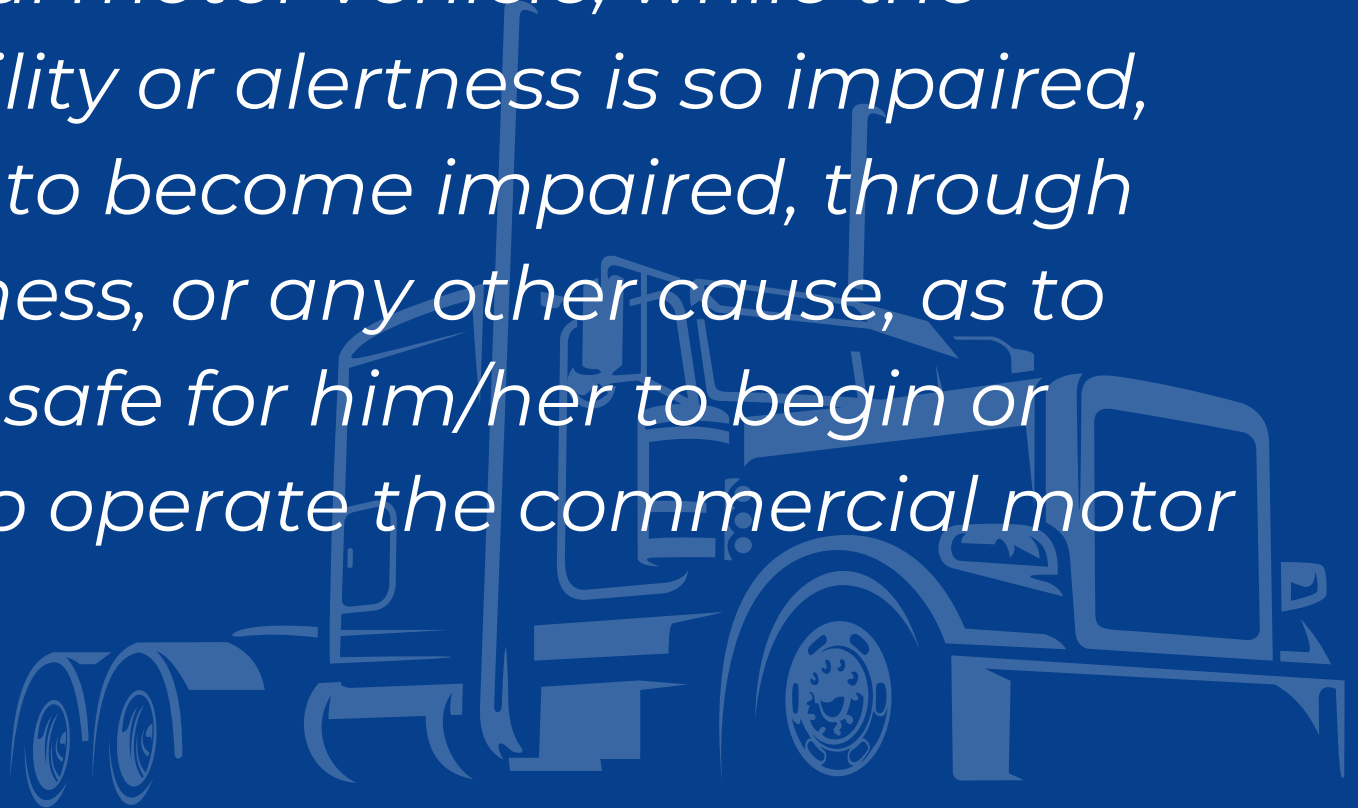


**Are fatigue-
related refusals
still protected?**



The Regulation

“No driver shall operate a commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a commercial motor vehicle, while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle....”



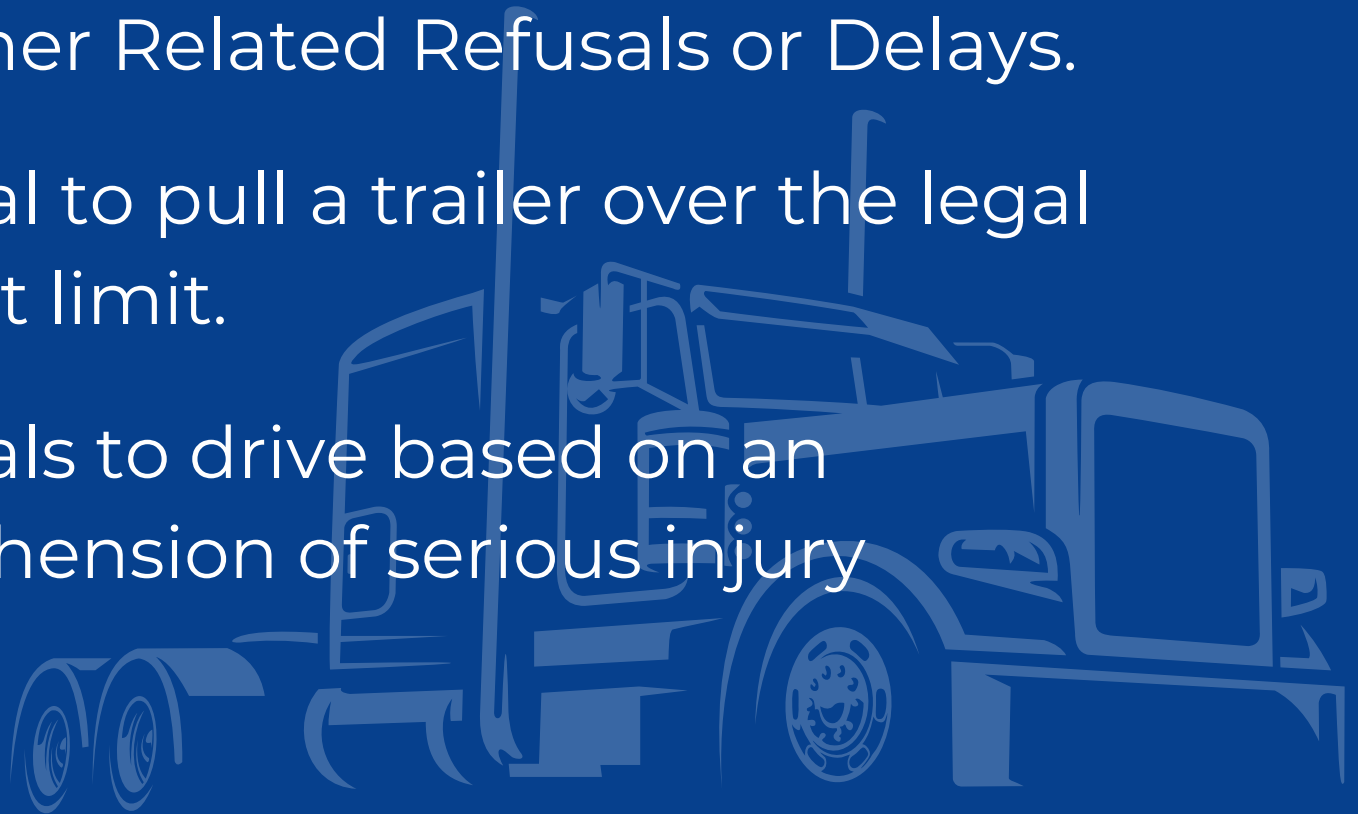
STAA Protections Can Still Apply

- ✓ Refusal to drive because of illness.
- ✓ Refusals to drive after an altercation.
- ✓ Refusal to drive due to pain or medication.
- ✓ Refusal to drive equipment not in compliance with FMCSR's.
- ✓ Refusal to drive vehicle due to “minor” violations of DOT regulations.



STAA Protections Can Still Apply

- ✓ Refusal to Drive Based on Hours of Service Violations.
- ✓ Refusal to Speed.
- ✓ Weather Related Refusals or Delays.
- ✓ Refusal to pull a trailer over the legal weight limit.
- ✓ Refusals to drive based on an apprehension of serious injury



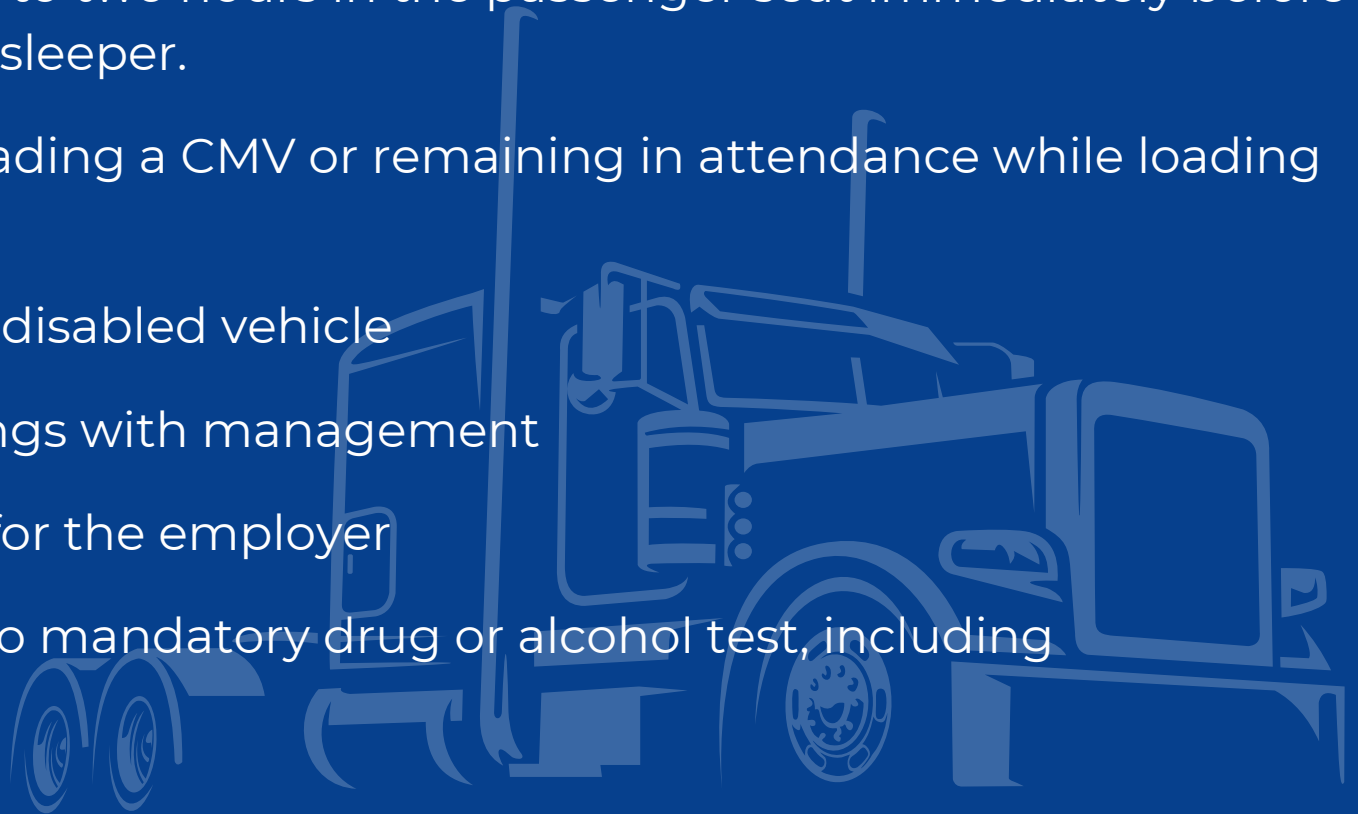
Accurate Recording of On-Duty Time





Examples of activities to be recorded as “On duty” on a driver’s daily log

- Time waiting to be dispatched while at a customer or on public property unless relieved of duty by the employer
- Vehicle inspections
- All time in a CMV except resting in a sleeper berth, or time resting in a parked CMV or up to two hours in the passenger seat immediately before or after 8 hours in sleeper.
- Loading and unloading a CMV or remaining in attendance while loading or unloading
- Remaining with a disabled vehicle
- Mandatory meetings with management
- Performing work for the employer
- Time submitting to mandatory drug or alcohol test, including commuting.



Adverse Actions

- ✗ Discharges, suspensions and blacklisting.
- ✗ Warning Letters.
- ✗ Points for attendance policy violations may constitute an adverse action.

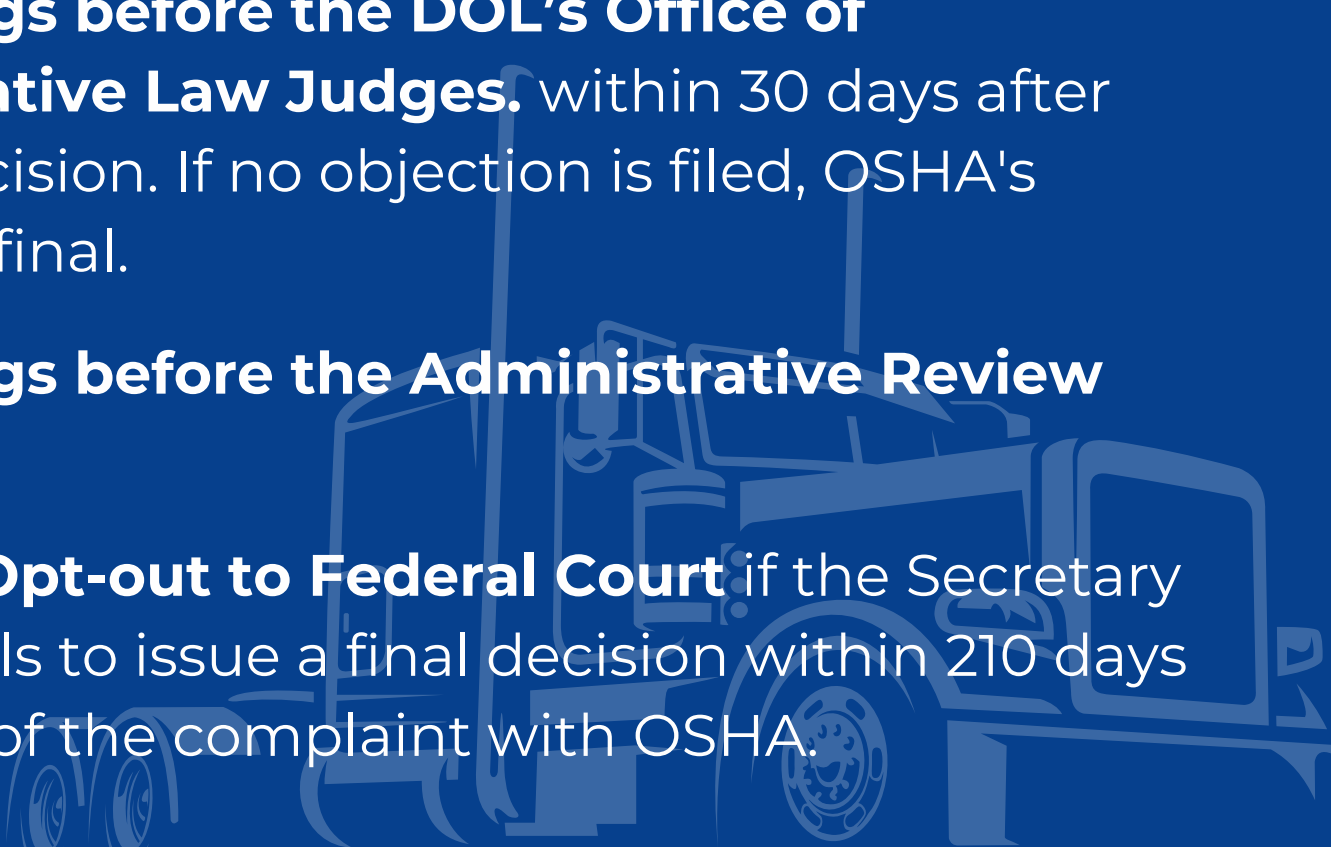


Other Actions

It is a violation of the STAA “to intimidate, threaten, restrain, coerce, blacklist, discharge, discipline, harass, suspend, demote, or in any other manner retaliate against any employee because the employee or a person acting pursuant to the employee's request has “engaged in activity protected under the STAA.”

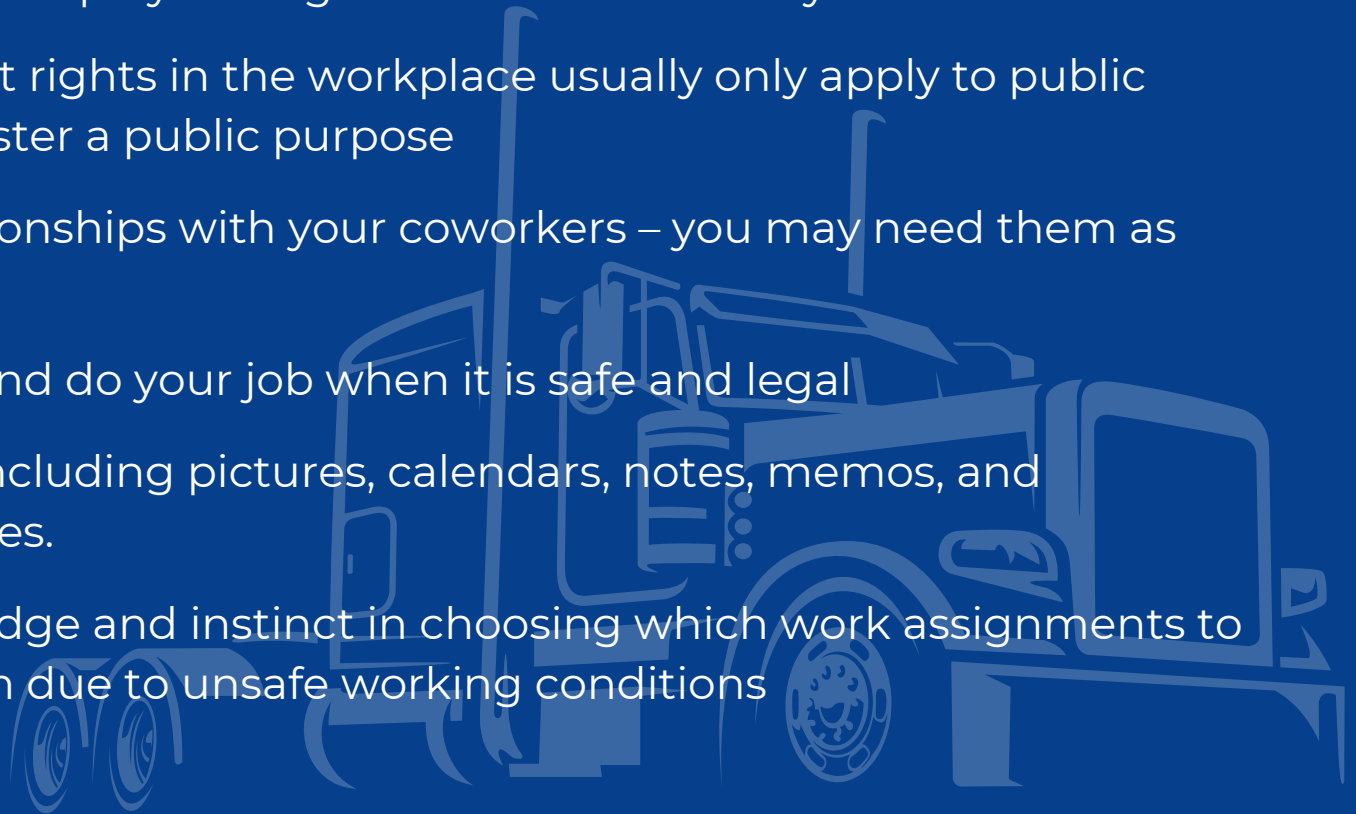


Procedure

- **Filing with OSHA.** Complaints of unlawful retaliation violating the STAA must be filed with the Federal OSHA not later than 180 days after the retaliation occurred.
 - **Proceedings before the DOL's Office of Administrative Law Judges.** within 30 days after OSHA's decision. If no objection is filed, OSHA's decision is final.
 - **Proceedings before the Administrative Review Board.**
 - **Jury Trial Opt-out to Federal Court** if the Secretary of Labor fails to issue a final decision within 210 days after filing of the complaint with OSHA.
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TAYLOR'S RULES FOR WHISTLEBLOWERS

- Make sure your employer knows you are the whistleblower
- Follow company policy first when possible, practical and legal
- A recording device is a whistle blower's best friend...but check your state's eavesdropping laws
- Don't lie to your employer
- Do not give your employer a legitimate reason to fire you
- First amendment rights in the workplace usually only apply to public employees, to foster a public purpose
- Build good relationships with your coworkers – you may need them as witnesses
- Keep your cool and do your job when it is safe and legal
- Keep evidence including pictures, calendars, notes, memos, and newspaper articles.
- Use your knowledge and instinct in choosing which work assignments to refuse to perform due to unsafe working conditions



Resources



OALJ Law Library. The Department of Labor maintains an excellent on-line law library containing regulations, laws, and decisions in STAA cases:

www.oalj.dol.gov/LIBWHIST.HTM

Federal Motor Carrier Safety Administration. The regulations relating to the operation of commercial motor vehicles and the FMCSA's interpretative options can be found on FMCSA's website:

www.fmcsa.dot.gov/

Truckers Justice Center Website: Paul Taylor's firm website and contains information on STAA Cases. Call the Trucker's Justice Center at 651-454-5800 for free advice.

www.truckersjustice.com

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& GET A FREE T-SHIRT OR HOODIE



SHARE YOUR FEEDBACK



bit.ly/staa-feedback

Q&A

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A screenshot of a Q&A interface window. The window has a title bar with three colored buttons (red, yellow, green) and the text 'Q&A'. The main content area is white and contains the text 'Welcome' and 'Feel free to ask the host and panelists questions'. At the bottom, there is a text input field with the placeholder text 'Hello! I am a test question. How are you?'. Below the input field, there is a checkbox labeled 'Send anonymously' and two buttons: 'Cancel' and 'Send'.