

# Whistleblower Protection for Railroad Employees

On August 3, 2007, the Federal Rail Safety Act (FRSA), 49 U.S.C. Section 20109, was amended by The Implementing Recommendations of the 9/11 Commission Act to transfer authority for rail employee whistleblower protection from the Federal Railroad Administration (FRA) to the Occupational Safety and Health Administration (OSHA), and to include new rights and remedies.

Under the FRSA, employees of a railroad carrier and its contractors and subcontractors are protected from retaliation for reporting safety or security concerns, reporting accidents/injuries, seeking prompt medical attention and immediate transportation to the hospital for on-job injuries, refusing to work under certain unsafe conditions, or refusing to authorize the use of any safety- or security-related equipment, track or structure.

Additionally, a railroad may not discharge or in any other manner retaliate against you because you provided information to or assisted in an investigation by a federal regulatory or law enforcement agency, a member or committee of Congress, or your company about an alleged violation of federal laws and regulations related to railroad safety or security.

Complaints must be filed with OSHA within 180 days after the alleged unfavorable personal action occurs (i.e., when you first become aware of the retaliatory action). If you prevail in your whistleblower case, you will be entitled to all relief necessary to make you whole, including reinstatement of seniority, back pay with interest, compensatory damages, and reasonable attorney fees. Relief may also include punitive damages up to \$250,000.00.

BMWED strongly recommends members seek the assistance of Designated Legal Counsel when filing a complaint under Section 20109. A list of Designated Legal Counsel can be found at [www.bmwe.org](http://www.bmwe.org) or by contacting your General Chairperson. For more information regarding your rights under Federal Whistleblower laws, please click on the [OHSa Fact Sheet, Whistleblower Protection for Railroad Workers](#).