

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 370

Judiciary I Committee Substitute Adopted 4/22/99

Short Title: OSHA Witness Statements.

(Public)

Sponsors:

Referred to:

March 15, 1999

A BILL TO BE ENTITLED

AN ACT CLARIFYING WHEN WITNESS STATEMENTS OBTAINED PURSUANT TO THE ENFORCEMENT OF THE OCCUPATIONAL SAFETY AND HEALTH ACT MAY BE RELEASED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-136(e) reads as rewritten:

"(e) The Commissioner is authorized to compile, analyze, and publish, in summary or detailed form, all reports or information obtained under this section. Files and other records relating to investigations and enforcement proceedings pursuant to this Article shall not be subject to inspection and examination as authorized by G.S. 132-6 while such investigations and proceedings are ~~pending~~ pending, except that, subject to the provisions of subsection (e1) of this section, an employer cited under the provisions of this Article is entitled to receive a copy of the official inspection report which is the basis for citations received by the employer following the issuance of citations."

Section 2. G.S. 95-136(e1) reads as rewritten:

"(e1) Upon the written request of and at the expense of the requesting party, official inspection reports of inspections conducted pursuant to this Article shall be available for release in accordance with the provisions contained in this subsection and subsection (e) of this section. The names of witnesses or complainants, and any information within

1 statements taken from witnesses or complainants during the course of inspections or
2 investigations conducted pursuant to this Article that would name or otherwise identify
3 the witnesses or complainants, shall not be released to any employer or third ~~party.~~ party
4 and shall be redacted from any copy of the official inspection report provided to the
5 employer or third party. Witness statements that are in the handwriting of the witness or
6 complainant shall, upon the request of and at the expense of the requesting party, be
7 transcribed so that information that would not name or otherwise identify the witness
8 may be released. A witness or complainant may, however, sign a written release
9 permitting the Commissioner to provide information specified in the release to any
10 persons or entities designated in the release. Nothing in this section shall be construed to
11 prohibit the use of the name or statement of a witness or complainant by the
12 Commissioner in enforcement proceedings or hearings held pursuant to this Article. The
13 Commissioner shall make available to the employer 10 days prior to a scheduled
14 enforcement hearing unredacted copies of the witness statements the Commissioner
15 intends to use at the enforcement hearing or the statements of witnesses the
16 Commissioner intends to call to testify, provided a written request for the statement is
17 received by the Commissioner no later than 12 days prior to the enforcement hearing. If
18 the request for an unredacted copy of the witness statement or statements is received less
19 than 12 days before a hearing, the statement or statements shall be made available as soon
20 as practicable. The Commissioner may permit the use of names and statements of
21 witnesses and complainants and information obtained during the course of inspections or
22 investigations conducted pursuant to this Article by public officials in the performance of
23 their public duties."

24 Section 3. This act is effective when it becomes law.