

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 1999-364  
SENATE BILL 370

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 statements taken from witnesses or complainants during the course of inspections or investigations conducted pursuant to this Article that would name or otherwise identify the witnesses or complainants, shall not be released to any employer or third party and shall be redacted from any copy of the official inspection report provided to the employer or third party. Witness statements that are in the handwriting of the witness or complainant shall, upon the request of and at the expense of the requesting party, be transcribed so that information that would not name or otherwise identify the witness may be released. A witness or complainant may, however, sign a written release permitting the Commissioner to provide information specified in the release to any persons or entities designated in the release. Nothing in this section shall be construed to prohibit the use of the name or statement of a witness or complainant by the Commissioner in enforcement proceedings or hearings held pursuant to this Article. The Commissioner shall make available to the employer 10 days prior to a scheduled enforcement hearing unredacted copies of: (i) the witness statements the Commissioner intends to use at the enforcement hearing, (ii) the statements of witnesses the

Commissioner intends to call to testify, or (iii) the statements of witnesses whom the Commissioner does not intend to use that might support an employer's affirmative defense or otherwise exonerate the employer; provided a written request for the statement or statements is received by the Commissioner no later than 12 days prior to the enforcement hearing. If the request for an unredacted copy of the witness statement or statements is received less than 12 days before a hearing, the statement or statements shall be made available as soon as practicable. The Commissioner may permit the use of names and statements of witnesses and complainants and information obtained during the course of inspections or investigations conducted pursuant to this Article by public officials in the performance of their public duties."

Section 3. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 19th day of July, 1999.

s/ Dennis A. Wicker  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 8:25 p.m. this 4th day of August, 1999