

Toxic Substances Control Act of 1976 (TSCA)
Public Law 94-469, October 11, 1976
15 USC Section 2622

§2622. Employee protection

(a) In general. No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has-

- (1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act;
- (2) testified or is about to testify in any such proceeding; or
- (3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

(b) Remedy.

(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2) (A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order

- (i) the person who committed such violation to take affirmative action to abate the

violation,

(ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment,

(iii) compensatory damages, and

(iv) where appropriate, exemplary damages. If such an order issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(c) Review.

(1) Any employee or employer adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code [5 USCS §701 et seq.].

(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

(d) Enforcement. Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

(e) Exclusion. Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.