

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 370

Short Title: OSHA Witness Statements.

(Public)

Sponsors: Senators Ballance; Dannelly, Gulley, Kinnaird, Lucas, Martin of Guilford, Miller, Shaw of Cumberland, and Weinstein.

Referred to: Judiciary I.

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(e1) reads as rewritten:

"(e1) The ~~In order to encourage witnesses and complainants without fear of reprisal to speak freely to duly authorized agents of the Commissioner carrying out their duties pursuant to this Article, 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 or ordered to be released to any employer or third party-party by the Review Board or any court, either during the pendency or after final determination of proceedings under this Article, unless their testimony or statements are needed by the Commissioner to enforce the provisions of this Article.~~ 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 Commissioner from using the name or statement of a witness or complainant ~~in~~

1 ~~enforcement proceedings or hearings held pursuant to this Article.~~ at hearings to enforce the
2 provisions of this Article. Upon the Commissioner's determination that a witness will be
3 called to testify at a hearing on the merits, the Review Board or the court shall, on motion
4 of the respondent, order the Commission to produce, no later than five days prior to that
5 hearing, any statement of the witness in the possession of the Commissioner that relates
6 to the subject matter of the testimony of the witness. The Commissioner may permit the
7 use of names and statements of witnesses and complainants and information obtained
8 during the course of inspections or investigations conducted pursuant to this Article by
9 public officials in the performance of their public duties."

10 Section 2. This act is effective when it becomes law.