

# Maryland's whistleblower laws need teeth

By Sally Dworak-Fisher and Rena Steinzor

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**I**n 2013, about 25,000 Maryland workers suffered on-the-job injuries severe enough to force them to miss a day or more of work; 78 of them actually died from their injuries. Year after year, a few tragic fact patterns repeat more often than you might expect: arborists crushed by falling trees, construction workers tumbling from ladders and roadwork crews run over by passing motorists.

All of these deaths are preventable and in many cases could have been avoided if employers had simply followed the workplace safety laws already on the books. But bosses cut corners to speed up a project, to avoid the capital costs of installing new or safer equipment or just because they don't respect the rules. We often hear from workers who see this kind of bad behavior by their employers but are afraid to speak out for fear of losing a job or hours or a promotion.

Maryland's whistleblower laws, at least as enforced by the Maryland Occupational Safety and Health Administration Division, are inadequate to the task. As one small example, MOSH only investigates retaliation complaints filed by whistleblowers who raise concerns about safety and health in the workplace — a narrow focus that forces workers to navigate a byzantine administrative landscape to find the right agency to help them in other cases.

Whistleblowers can help identify and put a stop to all sorts of illegal activity, if they're properly protected. Dozens of state and federal laws include provisions intended to shield whistleblowers from retaliatory actions by employers who have been outed. But this piecemeal approach, with different laws enforced by different agencies, is too complicated and has too many holes.

To take the load off of overburdened state investigators, Marylanders need a new law that gives whistleblowers the right to sue employers who retaliate. A comprehensive law with that fail-safe mechanism would be an invaluable tool for promoting better practices at worksites across the state because it would encourage workers to raise red flags when their employers skirt the law and protect them when they have the courage to do so.

In New Jersey, for example, the Comprehensive Employee Protection Act prohibits employer retaliation against any worker who reports any "activity, policy or practice of the employer ... [that] is in violation of a law, or a rule or regulation ... or is fraudulent or criminal." The New Jersey law has been a success because of its broad coverage and extensive remedies.

Let's be clear that blowing the whistle on your employer in the absence of legal protections is risky. MOSH investigators found that employers had taken retaliatory steps against nearly 40 percent of whistleblowers in 2013. This is consistent with reports of retaliation when workers assert their rights in other areas, such as the right to be paid minimum wage or overtime. A national study revealed that nearly half of low-wage workers who complained to their bosses about working conditions or tried to form a union suffered illegal retaliation, and 20 percent of the surveyed workers saw that type of response and chose not to blow the whistle.

In the end, strong whistleblower laws protect everyone because by helping to eliminate workplace safety hazards, wage theft and other problems, whistleblowers not only help themselves and their co-workers, they spare their

employers and taxpayers the costs, fiscal and otherwise, that accompany workplace injuries and malfeasance. It's time to make sure Maryland law protects workplace whistleblowers.

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