

[Title 8](#). Labor and Workforce Development

[Chapter 61](#). Boiler and Pressure Vessel Construction Code

Section 480. Protected activity

8 AAC 61.480. Protected activity

(a) To establish a violation of [AS 18.60.089](#), the employee's engagement in a protected activity need not be the only consideration for discharge or other discrimination. [AS 18.60.089](#) is violated if

(1) engaging in a protected activity is a substantial reason for the action; and

(2) the discharge or other discrimination would not have taken place if the employee had not engaged in a protected activity.

(b) The following activities are protected:

(1) An employee may file a discrimination complaint that is related to conditions at the work place, as distinguished from a complaint related only to general public safety and health. The employee may file a complaint with the department, a federal, state or local government agency, or the employer. The employee is not required to make the complaint directly. It is sufficient if the employee sets into motion, or participates with others in, an action that results in a complaint being made.

(2) An employee may institute or cause to be instituted any proceedings related to the enforcement of occupational safety and health standards. These proceedings include contesting an abatement date under [AS 18.60.093](#) (e), petitioning for adoption of an occupational safety and health standard, requesting modification or revocation of a variance, or judicially challenging a standard. The employee is not required to institute the proceeding directly. It is sufficient if the employee sets into motion, or participates with others in, activities which result in proceedings related to [AS 18.60.010](#) - 18.60.105.

(3) An employee may testify or intend to testify in proceedings under [AS 18.60.010](#) - 18.60.105. This protection is not limited to testimony in proceedings instituted or caused to be instituted by employees, but extends also to any statements given in the course of judicial, quasi-judicial, or administrative proceedings including inspections, investigations, and administrative regulations adoption or adjudicative functions.

(4) An employee may exercise any other right afforded by [AS 18.60.010](#) - 18.60.105. These rights include participating in an enforcement inspection, requesting a copy of the log and summary of occupational injuries and illnesses, and requesting access to an employee's own medical records.

(c) An employee's engagement in a protected activity described in (b) of this section does not protect the employee from discharge or discipline for legitimate reasons unrelated to the protected activity.

(d) An employee who walks off the job because of an unsafe condition at the worksite is engaged in protected activity if the employee is confronted with the choice of not performing an assigned task or being subjected to a risk of serious injury or death arising from the unsafe condition. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person would conclude that there is a real danger of serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through the employer or regular governmental enforcement channels. An employee, if feasible, must also have first sought from the employer, and have been unable to obtain, a correction of the unsafe condition.

History: Eff. 9/21/85, Register 95

Authority: [AS 18.60.020](#)

[AS 18.60.030](#)

[AS 18.60.089](#)