

Workforce Commission Minimum Wage Law

Overview TWC provides information to employers and employees about their respective rights, duties and remedies under the Texas Minimum Wage Act.

- The Texas Minimum Wage Act:
• Establishes a minimum wage for non-exempt employees
• Requires covered employers to provide each employee with a written earnings statement containing certain information about the employee's pay
• Designates TWC as the agency responsible for disseminating information about state minimum wage requirements
• Contains provisions concerning agricultural piece rate workers
• Exempts a variety of employers from its coverage
• Provides civil remedies for its violation

Current Minimum Wage Texas adopts the federal minimum wage rate. Effective July 24, 2009, the federal minimum wage is \$7.25 per hour. The Texas Minimum Wage Act does not prohibit employees from bargaining collectively with their employers for a higher wage.

With specified restrictions, employers may count tips and the value of meals and lodging toward minimum wage. An employer does not need to pay an employee who lives on the business premises for on-call time in addition to assigned working hours. Under certain conditions, an employer may pay a sub-minimum wage to an employee who is a patient or client of the Texas Department of Mental Health and Mental Retardation, or to other individuals due to age (see the law for details), or to productivity impairments.

Wage Rate Complaints & Deadline If you believe you have been paid at a rate lower than the law requires, you may choose to take legal action. An employee has two years from the date wages were due to file a lawsuit to recover the unpaid wages plus an additional equal amount as liquidated damages. The employer can be assessed reasonable attorney's fees and court costs.

Earnings Statement Employers must provide employees on a written earnings statement information that enables employees to determine from a single document whether they have been paid correctly for a given pay period.

Exemptions The primary exemption from the Texas Minimum Wage Act is for any person covered by the federal Fair Labor Standards Act (FLSA).

- Other specific exemptions include:
• Employment in, of or by religious, educational, charitable or nonprofit organizations
• Professionals, salespersons or public officials
• Domestic workers
• Certain youths and students
• Inmates
• Family members
• Amusement and recreational establishments
• Non-agricultural employers not liable for state unemployment contributions
• Dairying and production of livestock
• Sheltered workshops

Agricultural Piece Rates The Commissioner of Agriculture establishes piece rates for agricultural commodities commercially produced in substantial quantities in Texas, if sufficient productivity information is available. The piece rates are intended to guarantee at least minimum wage for harvesters of average ability and diligence while allowing harvesters to earn more by producing more.

REV. 04/03/2013

NOTICE: This state has its own minimum wage law. Employers are also required to display the federal Employee Rights Under the Fair Labor Standards Act posting, which indicates the federal minimum wage. Where federal and state rates both apply to an employee, the U.S. Department of Labor dictates that the employee is entitled to the higher minimum wage rate. THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY.

Workforce Commission, Civil Rights Division Equal Employment Opportunity

EQUAL EMPLOYMENT OPPORTUNITY IS ... IGUALIDAD DE OPORTUNIDADES EN EL EMPLEO ES ...

The Law in Texas

The law prohibits employers, employment agencies and labor unions from denying equal employment opportunities in

- hiring
• promotion
• discharge
• pay
• fringe benefits
• membership
• training
• other aspects of employment

because of race, color, national origin, religion, sex, age, or disability. Sexual harassment of unpaid interns is also against the law.

La Ley en Texas

La ley prohíbe a los empleadores, agencias de empleo y sindicatos de negar la igualdad de oportunidades de empleo en

- ocupar
• ascensos
• desocupar
• beneficios
• membresía
• entrenamiento
• otros aspectos del empleo

por causa de raza, color, nacionalidad, religión, sexo, edad, o incapacidad. Hostigamiento sexual a los internos sin pago va también en contra de la ley.

If you believe you have been discriminated against, contact the Texas Workforce Commission, Civil Rights Division
Si usted cree que ha sido discriminado, comuníquese con la Comisión Laboral de Texas, División de Derechos Civiles
101 East 15th Street, Rm. 144-T, Austin, TX 78778-0001
(512) 463-2642
Toll Free (within Texas) 1-888-452-4778
TTY (512) 371-7473
www.twc.state.tx.us

No appointment necessary
No es necesario hacer cita

Free Language Assistance
Asistencia lingüística gratuita

Equal Opportunity Employer / Program
Igualdad de Oportunidad de Empleo / Programa

REV. 09/2013

Office of Injured Employee Counsel Workers' Compensation: Ombudsman Program

NOTICE TO EMPLOYEES CONCERNING ASSISTANCE AVAILABLE IN THE WORKERS' COMPENSATION SYSTEM FROM THE OFFICE OF INJURED EMPLOYEE COUNSEL

Have you been injured on the job? As an injured employee in Texas, you have the right to free assistance from the Office of Injured Employee Counsel (OIEC). OIEC is the state agency that assists unrepresented injured employees with their claim in the workers' compensation system.

You can contact OIEC by calling its toll-free telephone number: 1-866-EZE-OIEC (1-866-393-6432). More information about OIEC and its Ombudsman Program is available at the agency's website (www.oiec.texas.gov).

OMBUDSMAN PROGRAM

WHAT IS AN OMBUDSMAN? An Ombudsman is an employee of OIEC who can assist you if you have a dispute with your employer's insurance carrier. An Ombudsman's assistance is free of charge. Each Ombudsman has a workers' compensation adjuster's

license and has completed a comprehensive training program designed specifically to assist you with your dispute.

An Ombudsman can help you identify and develop the disputed issues in your case and attempt to resolve them. If the issues cannot be resolved, the Ombudsman can help you request a dispute resolution proceeding at the Texas Department of Insurance, Division of Workers' Compensation. Once a proceeding is scheduled an Ombudsman can:

- Help you prepare for the proceeding (Benefit Review Conference and/or Contested Case Hearing);
• Attend the proceeding with you and communicate on your behalf; and
• Assist you with an appeal or a response to an insurance carrier's appeal, if necessary.

28 TAC §276.5. Employer Notification of Ombudsman Program to Employees (Effective 9/1/13)

(a) All employers participating in the workers' compensation system shall post notice of the Office of Injured Employee Counsel's (OIEC) Ombudsman Program. This notice shall be posted in the personnel office, if the employer has a personnel office, and in the workplace where each employee is likely to see the notice on a regular basis.

(b) This notice of the Ombudsman Program shall be publicly posted in English, Spanish, and any other language that is common to the employer's employees.

(c) This notice shall be the text provided by OIEC without any additional words or changes and may be obtained by:

- (1) Downloading the form on OIEC's website at: www.oiec.texas.gov; or
(2) Requesting the notice by calling OIEC's toll-free telephone number at: 1-866-EZE-OIEC (1-866-393-6432).

REV. 09/2013

Workforce Commission Attention Employees

Your employer reports your wages to the Texas Workforce Commission. If you become unemployed, you may be eligible for unemployment benefit payments. File online at www.texasworkforce.org or call 1-800-939-6631.

The Texas Payday Law, Title II, Chapter 61, Texas Labor Code, requires Texas employers to pay their employees who are exempt from the overtime pay provisions of the Fair Labor Standards Act of 1938 at least once per month. All other employees must be paid at least as often as semi-monthly and each pay period must consist as nearly as possible of an equal number of days.

Scheduled paydays: (You must indicate date or dates of the month for employees paid monthly or semi-monthly, and day of the week for employees paid weekly or at other times.)

MONTHLY \_\_\_\_\_ SEMI-MONTHLY \_\_\_\_\_ WEEKLY \_\_\_\_\_

OTHER \_\_\_\_\_

For more information write or contact the Texas Workforce Commission at Austin, Texas 78778, or contact your nearest Commission office. Commission offices are located in major cities throughout the state.

TO EMPLOYERS: The law required that this notice or its equivalent be posted (in full view) at your place of business. Additional posters are available, free of charge, by logging on to Unemployment Tax Services http://www.texasworkforce.org/uts and selecting the Account Info tab or by fax at 512-936-3205.

Y-10C

REV. 02/2015

Workforce Commission, Labor Law Section Child Labor Laws

Texas Workforce Commission Labor Law Section, Child Labor Enforcement U.S. Department of Labor Wage and Hour Division

For further information about Texas' child labor laws, call: 1-800-832-9243 (in Texas only) TDD 1-800-735-2989

This poster provides some guidelines to the Texas child labor laws, but it is not complete. Chapter 51, Texas Labor Code, governs the employment of children under Texas state law. MINIMUM AGE FOR EMPLOYMENT IS 14; however, state and federal laws provide for certain exceptions. Please call TWC's Labor Law Section for a complete copy of the law or for answers to questions about labor law. The Fair Labor Standards Act (FLSA) governs federal laws and guidelines pertaining to child labor. For information concerning federal child labor laws, consult your local listings for the nearest office of the U.S. Department of Labor, Wage and Hour Division or call 1-866-487-9243

The following are prohibited occupations for 14- through 17-year-old children: Prohibited occupations are the same for both federal and state law. The minimum age applies even when the minor is employed by the parent or a person standing in place of the parent. The hazardous occupations designated by an asterisk (\*) have provisions for employment of persons below the age of eighteen (18), provided applicable apprentice or student-learner certification has been obtained. Persons desiring specific information about these exceptions should contact the nearest office of the United States Department of Labor.

Occupations declared particularly hazardous or detrimental to the health or well-being of all children 14 through 17 years of age include occupations:

- (1) in or about plants or establishments other than retail establishments which manufacture or store explosives or articles containing explosive components other than retail establishments
(2) involving the driving of motor vehicles and outside helpers
A. on any public road or highway.
B. in or about any place where logging or sawmill operations are in progress, or
C. in excavations.
(Under certain conditions, driving a motor vehicle for a commercial purpose is NOT considered a hazardous occupation under state or federal law.)
(3) connected with coal mining.
(4) including logging and sawmill occupations and occupations involving fire fighting and timber tracts.
(5) \*operating or assisting to operate power-driven woodworking machines.
(6) involving exposure to radioactive substances and to ionizing radiations.
(7) operating or assist to operate power-driven hoisting apparatus such as elevators, cranes, derricks, hoists, high-lift trucks.
(8) \*operating or assisting to operate power-driven metal forming, punching, and shearing machines.
(9) in connection with mining, other than coal.
(10) \*operating or assisting to operate power-driven meat processing machines, and occupations including slaughtering, meat packing, processing, or rendering
(11) operating or assisting to operate power-driven bakery machines.
(12) \*Occupations involved in the operation of power-driven paper-products machines, balers and compactors.
(13) manufacturing brick, tile, and kindred products.
(14) \*operating or assisting to operate power-driven circular saws, band saws and guillotine shears, abrasive cutting discs, reciprocating saws, chain saws and wood chippers
(15) wrecking, demolition, and ship-breaking operations.
(16) \*occupations in roofing operations and on or about a roof.
(17) \*connected with excavation operations.

Additional prohibited occupations that apply only to 14- and 15-year-olds: Occupations declared particularly hazardous or detrimental to the health or well-being of 14- and 15-year-old children include:

- (1) Mining, manufacturing, or processing occupations, including duties in workrooms or places where goods are manufactured, mined, or otherwise processed.
(2) The operation or tending of hoisting apparatus or any power-driven machinery other than office machines.
(3) Operating a motor vehicle or service as helpers on such vehicles, including passenger-type vehicles.
(4) Public messenger service.
(5) Occupations in connection with:
A. Transportation of persons or property by rail, highway, air, water, pipeline, or other means.
B. Warehousing and storage.
C. Communications and public utilities.
D. Construction including demolition and repair

- (6) Work performed in or about boiler or engine rooms.
(7) Work in connection with maintenance or repair of the establishment, machines or equipment.
(8) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds or their substitutes.
(9) Cooking (except under limited circumstances)
(10) Baking
(11) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery-type mixers.
(12) Work in freezers and meat coolers and all work in preparation of meats for sale (except wrapping, sealing, labeling, weighing, pricing and stocking when performed in other areas).
(13) Loading and unloading goods to and from trucks, railroad cars or conveyors.
(14) All occupations in warehouses, except office and clerical work.
(15) Youth peddling activities.
(16) Catching and cooping of poultry in preparation for transport or for market.

Work times for 14- and 15-year-olds

State Law — A person commits an offense if that person permits a child 14 or 15 years of age who is employed by that person to work:

- (1) more than 8 hours in one day or more than 48 hours in one week;
(2) between the hours of 10 p.m. and 5 a.m. on a day that is followed by a school day or between the hours of midnight and 5 a.m. on a day that is not followed by a school day if the child is enrolled in school;
(3) between the hours of midnight and 5 a.m. on any day during the time school is recessed for the summer if the child is not enrolled in summer school.

Federal Law — The FLSA further regulates hours of employment for children:

- (1) may not work during school hours
(2) may not work more than eight hours on a non-school day or 40 hours during a non-school week.
(3) may not work more than three hours on a school day or 18 hours during a school week.
(4) Children may work only between 7 a.m. and 7 p.m. during the school year. However, between June 1 and Labor Day, they may work between the hours of 7 a.m. and 9 p.m.

Certificate of Age/Child Actors

The Texas Labor Code does not require a certificate of age. However, applications for certificates are available by phone by calling the 1-800 number above or from your local office of the Texas Workforce Commission.

- (1) A child who is at least 14 years of age may apply to the Texas Workforce Commission for a certificate of age.
(2) TWC may authorize the employment of a child younger than 14 as an actor or performer in a motion picture or in a theatrical, radio or television production.

Additional prohibited occupations that apply only under state law:

- (1) occupations involved in sales and solicitation by a child under 18 years of age.
(2) occupations in sexually oriented businesses by a child under 18 years of age.

PENALTIES:

State of Texas — An offense under Chapter 51, Texas Labor Code, is a Class B misdemeanor, except for the offense of employing a child under 14 to sell or solicit, which is a Class A misdemeanor. If the Commission determines that a person who employs a child has violated this Act, or a rule adopted under this Act, the Commission may assess an administrative penalty against that person in an amount not to exceed \$10,000 for each violation. The attorney general may seek injunctive relief in district court against an employer who repeatedly violates the requirements established by this Act relating to the employment of children.

Federal — The FLSA prescribes a maximum administrative penalty of \$11,000 per violation and/or criminal prosecution and fines.

101 E. 15TH STREET • AUSTIN, TEXAS 78778-0001
(512) 463-2222
RELAY TEXAS: 800-735-2989 (TDD)
800-735-2988 (Voice)
www.texasworkforce.org

Equal Opportunity Employer/Services
LLCL-70

REV. 09/2013

Department of Insurance, Division of Workers' Compensation Workers' Compensation

NOTICE TO EMPLOYEES CONCERNING WORKERS' COMPENSATION IN TEXAS

COVERAGE: [Name of employer] has workers' compensation insurance coverage from [name of commercial insurance company]

in the event of work-related injury or occupational disease. This coverage is effective from [effective date of workers' compensation insurance policy] Any injuries or occupational diseases which occur on or after that date will be handled by [name of commercial insurance company]

An employee or a person acting on the employee's behalf, must notify the employer of an injury or occupational disease not later than the 30th day after the date on which the injury occurs or the date the employee knew or should have known of an occupational disease, unless the Texas Department of Insurance, Division of Workers' Compensation (Division) determines that good cause existed for failure to provide timely notice. Your employer is required to provide you with coverage information, in writing, when you are hired or whenever the employer becomes, or ceases to be, covered by workers' compensation insurance.

EMPLOYEE ASSISTANCE: The Division provides free information about how to file a workers' compensation claim. Division staff will answer any questions you may have about workers' compensation and process any requests for dispute resolution of a claim. You can obtain this assistance by contacting your local Division field office or by calling 1-800-252-7031. The Office of Injured Employee Counsel (OIEC) also provides free assistance to injured employees and will explain your rights and responsibilities under the Workers' Compensation Act. You can obtain OIEC's assistance by contacting an OIEC customer service representative in your local Division field office or by calling 1-866-EZE-OIEC (1-866-393-6432).

SAFETY VIOLATIONS HOTLINE: The Division has a 24 hour toll-free telephone number for reporting unsafe conditions in the workplace that may violate occupational health and safety laws. Employers are prohibited by law from suspending, terminating, or discriminating against any employee because he or she in good faith reports an alleged occupational health or safety violation. Contact the Division at 1-800-452-9595.

Notice 6 • TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION • Rule 110.101(e)(1)

REV. 01/2013

