

# CITY OF HOUSTON EMPLOYER RESOURCE GUIDE



CITY OF HOUSTON  
OFFICE  
*of*  
BUSINESS OPPORTUNITY





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The Office of Business Opportunity is committed to creating a competitive and diverse business environment in the City of Houston by promoting the growth and success of local small businesses, with special emphasis on historically underutilized groups by ensuring their meaningful participation in the government procurement process.

**HOUSTON BUSINESS SOLUTIONS CENTER**  
611 Walker St., Lobby Level  
Houston, Texas 77002

[www.houstontx.gov/obo](http://www.houstontx.gov/obo)  
[www.houstontx.gov/hbsc](http://www.houstontx.gov/hbsc)  
832-393-0954

# INTRODUCTION TO THE TEXAS WORKFORCE COMMISSION

[www.twc.state.tx.us/customers/bemp/businesses-employers.html](http://www.twc.state.tx.us/customers/bemp/businesses-employers.html)

Texas Workforce Commission (TWC) is the state agency charged with overseeing and providing workforce development services to employers and job seekers of Texas. TWC strengthens the Texas economy by providing the workforce development component of the Governor's economic development strategy. Texas boasts an incredibly skilled workforce ready to attract enterprise to the Lone Star State. By focusing on the needs of employers, TWC gives Texas the competitive edge necessary to draw business here.

TWC's mission is to promote and support an effective workforce system that offers employers, individuals and communities the opportunity to achieve and sustain economic prosperity.

TWC is part of Texas Workforce Solutions, a local and statewide network comprised of the agency, 28 workforce development boards, and their contracted service providers and community partners. This network gives customers local access to workforce solutions and statewide services at numerous Workforce Solutions offices. TWC provides unemployment benefits services through six Tele-Centers and administers unemployment tax through numerous local tax offices.

The major functions of TWC include developing the workforce, providing support services including child care for targeted populations participating in workforce training, and administering the unemployment benefits and tax programs. TWC also provides information and analysis on shifts in occupations and industries within the state.

Workforce development includes the oversight and support of an employer-driven, integrated system that consolidates employment, job training, and work-related services including the regulation of career schools.

The Unemployment Benefits program, funded through employer taxes, provides temporary income to workers who have lost their jobs through no fault of their own. TWC collects unemployment taxes from liable employers and pays unemployment benefits to qualified claimants. TWC has a formal appeal procedure to address claim issues and employer's tax liability, contribution or reimbursement disputes.

For employers, TWC offers recruiting, training and retraining, outplacement services, and valuable information on employment law and labor market trends and statistics.

For job seekers, TWC offers career development information, job-search resources, training programs and, as appropriate, unemployment benefits. While targeted populations receive intensive assistance to overcome barriers to employment, all Texans can benefit from the services offered by the partners of Texas Workforce Solutions.





# WHAT IS AN “EMPLOYER” IN TEXAS?

Employment is any service performed for wages. This definition includes any hiring contract, whether written, oral or implied. The Texas Unemployment Compensation Act (TUCA) applies to services individuals perform for wages, unless the Texas Workforce Commission (TWC) deems otherwise. If you are uncertain of your TUCA status, contact TWC.

An employing unit subject to TUCA is:

- An employing unit that pays \$1,500.00 in wages in a calendar quarter or has at least one employee during twenty different weeks in a calendar year. The weeks do not have to be consecutive.
- An individual or employing unit that acquires or otherwise receives, through any means, all or part of the organization, trade, business, or workforce of another that was an employer subject to this Act at the time of the acquisition.
- An employing unit that is a non-profit organization as described under section 501(C)(3) of the IRS code and has four or more employees during twenty different weeks in a calendar year.
- An employing unit that is subject to the Federal Unemployment Tax Act (FUTA) and has Texas employees.
- An employing unit that elects to become subject.
- All political subdivisions and instrumentalities of the State of Texas.

## CONTRACT LABOR FAQ

[www.twc.state.tx.us/news/eft/specific\\_criteria.html](http://www.twc.state.tx.us/news/eft/specific_criteria.html)

Employers often confront these issues over short-term or as needed workers performing services for them. Any employer using what it considers to be "contract labor" should ask these questions up front. "Contract labor" may be the most widely used misnomer in business today. The issue is whether a given worker is an employee or an independent contractor. In basic terms, an employee is someone over whose work an employer exercises direction or control and for whom there is extensive wage reporting and tax responsibility. An independent contractor is self-employed, bears responsibility for his or her own taxes and expenses, and is not subject to an employer's direction and control. The distinction depends upon much more than what the parties call themselves.

The Texas Unemployment Compensation Act does not directly define "independent contractor". Instead, it sets forth a broadly inclusive test, known as the "direction or control" or "common law" test, for who is an employee: "employment" means a service, including service in interstate commerce, performed by an individual for wages or under an express or implied contract of hire, unless it is shown to the satisfaction of the Commission that the individual's performance of the service has been and will continue to be free from control or direction under the contract and in fact". By implication, an "independent contractor" would be a person whose services do not meet the above test.

It is important to note that it does not matter that one or both parties may call their arrangement "contract labor". The above definition makes clear that the important consideration is the underlying nature of the work relationship. The law creates a presumption of employment and places the burden for proving otherwise on the employer. It sets forth the primary factor in an independent contractor relationship, namely, the absence of direction and control over the work.

### **IS THE SERVICE PROVIDED BY THE INDIVIDUALS IN QUESTION ESSENTIAL TO, AND AN INTEGRAL PART OF, THE SERVICE THE EMPLOYER PROVIDES TO THE PUBLIC?**

The less able an employer is to offer its primary service without the help of the people whose status is at issue, the more likely it is that they will be considered employees. Consider this: if certain services are so essential to a business that it will stand or fall based upon how well those services are performed, the business will naturally want to exercise enough direction and control over the services to ensure they are good. That amount of control can make a company an employer of such workers.



**WHAT OPPORTUNITY FOR PROFIT OR RISK OF LOSS IS THERE FOR THE WORKER? WHAT KIND OF INVESTMENT, OTHER THAN HIS OR HER TIME, DOES THE WORKER HAVE IN THE ENTERPRISE?**

An employee is paid for her time. She would not be expected to provide her own workplace, materials, tools, and supplies, or otherwise to invest her own money in the business. An employee who makes a costly mistake can be fired, but cannot legally be forced to work without pay. An independent contractor, on the other hand, is an independent businessperson with expenses of his or her own. He will be expected to provide or purchase everything he needs to do the job. If he fails to satisfy the customer, he would be required to redo the work for no additional compensation, or else face the risk of non-payment by the customer. These things create the opportunity for profit or loss.

**WHAT IS THE COMPENSATION ARRANGEMENT? IS THE COMPENSATION NEGOTIATED, OR IS IT IMPOSED BY THE EMPLOYER?**

A true independent contractor's main concern is her own bottom line, not that of the employer. Since she is responsible for her own overhead, including the hiring of any helpers she may need, there is always an element of negotiation in any bona fide contract for services. Usually, but not always, an independent contractor is paid by the job. It is up to him to figure out how much he needs to finish the job at a profit. If he miscalculates, the loss is his.

**DOES THE INDIVIDUAL PROVIDE HIS SERVICES TO THE PUBLIC AT LARGE? DOES HE ADVERTISE HIS SERVICES IN NEWSPAPERS, THE YELLOW PAGES, OR SPECIALIZED JOURNALS?**

If a person holds herself out to the public as self-employed and available for work for any customer with whom she can negotiate an acceptable price, she is likely to be held an independent contractor. The more the worker advertises, the more it is apparent that she is in business for herself, since an independent business stands or falls based upon its business development efforts.

**IS THERE A NON-COMPETITION AGREEMENT?**

Generally, non-competition agreements and independent contractors do not go hand-in-hand. Such a provision in a contract is strongly indicative of an employment relationship, chiefly because it proves that the services in question are directly related to the primary service provided by the employer. If those services were not related, there would be no "competition" and thus nothing against which to guard. The power to keep a person from pursuing his or her own business interests and to force a person to sign such an agreement is typical of the power wielded by employers over employees.

**DOES THE WORKER PROVIDE HIS SERVICES ON A CONTINUOUS BASIS?**

The more long-term, continuous, and exclusive the relationship is, the more likely it is to be employment. Independent contractors, on the other hand, generally perform their work one job at a time and are paid on the same basis.

**IS THE WORKER REQUIRED TO PROVIDE SERVICES UNDER THE EMPLOYER'S NAME? DOES SHE REPRESENT HERSELF TO THE PUBLIC AS BEING AN EMPLOYEE OF THE EMPLOYER? ON WHOSE BEHALF ARE THE SERVICES PERFORMED?**

If the general public would perceive the person to be a representative of the employer because of business cards, uniforms, or other advertising, this would be more indicative of an employee than an independent contractor. An employee performs services on behalf of the employer for customers of the employer. An independent contractor performs services on her own behalf for her own customers.



## **DOES THE EMPLOYER RETAIN THE RIGHT TO DICTATE HOW THE WORK SHOULD BE DONE? IS THE WORKER REQUIRED TO WORK A CERTAIN SCHEDULE, TO NOTIFY THE EMPLOYER IF HE WILL NOT COME TO WORK, OR TO GET THE EMPLOYER'S APPROVAL FOR ANY HELPERS WHO ARE HIRED?**

When an employer contracts for outside services, it is normally interested only in the end result, not in the details of how the contractor performs the work. The employer should have no interest in how the independent contractor allocates either his time or that of his helpers. By the same token, the employer would have no interest in the contractor's right to hire his own helpers, beyond the right to contractually specify that anyone providing services on a project must be properly licensed under whatever laws apply to the work.

# **ALTERNATIVES TO HIRING EMPLOYEES**

[www.twc.state.tx.us/news/eft/alternatives\\_to\\_hiring.html](http://www.twc.state.tx.us/news/eft/alternatives_to_hiring.html)

## **TEMPORARY EMPLOYEES**

1. Temporary employees hired directly by a company are the company's employees for all intents and purposes and can file unemployment claims when the job runs out.
2. Alternative: hire temporary employees through a temporary help service.
3. In such a case, the temporary service is the employer and will deal with any unemployment claims from such employees.
4. Hourly labor cost is higher, but at least there will be no unemployment claims to worry about.
5. Temporary employees can be considered employees of both the client company and the staffing firm for purposes of wage and hour statutes and other laws under joint employment rules - cover this issue in any staffing agreement that you sign.
6. "1000-hour rule" – this is a requirement under the federal pension and benefits protection law known as ERISA – it requires that if an employee works at least 1000 hours in a 12-month period, and if the company has some kind of pension or retirement benefit plan, the company must give that employee the chance to participate in the plan – that rule does not apply to other types of benefits, though.

## **EMPLOYEE LEASING**

1. In Texas, staff leasing companies are considered the "employers" of workers assigned to various clients, as long as the staff leasing firms are properly licensed and certified under applicable statutes (Chapter 91 of the Texas Labor Code).
2. Under the Texas Labor Code, a staff leasing firm is liable for unpaid wages, even if it has not been paid by the client company, but it is liable for other types of compensation that the client company may have promised to pay the employees only if it has contracted to assume such liability.
3. In an unemployment claim situation, a former employee of a staff leasing company is subject to potential disqualification for voluntarily leaving work if he or she was subject to a policy requiring the employee to contact the staff leasing firm after a work separation, but such a disqualification requires the staff leasing firm to prove that the employee was given written notice of such a requirement at the time of the work separation by either the client company or the staff leasing firm (see [Section 207.045\(i\)](#) of the Texas Labor Code).

# WORKERS COMPENSATION IN TEXAS

[www.tdi.texas.gov/wc/indexwc.html](http://www.tdi.texas.gov/wc/indexwc.html)

[www.tdi.texas.gov/wc/employee/workerresources\\_english.html](http://www.tdi.texas.gov/wc/employee/workerresources_english.html)

Workers' compensation insurance pays medical and income benefits to workers who are injured at work or have work-related diseases or illnesses.

This type of insurance protects workers by assuring that they are compensated for their injuries. It also helps employers because it relieves them of liability for claims and gives them certain legal protections, including immunity from most injury lawsuits.

Workers get benefits based on the type and severity of their injuries. There are four types of workers' compensation benefits:

- Income benefits pay a portion of a worker's lost wages.
- Medical benefits pay for medical care to treat the work injury.
- Burial benefits pay for some funeral expenses.
- Death benefits pay some lost wages to the family of a worker killed on the job.

*Workers' compensation does not pay for injuries that*

- Are intentional or self-inflicted
- Result from horseplay or voluntary drug or alcohol intoxication
- Result from voluntary participation in off-duty recreational, social, or sports events
- Result from "acts of God," unless the job has a high risk of injury from such acts
- Are inflicted by someone else for personal reasons unrelated to employment.

The Texas Department of Insurance (TDI) Division of Workers' Compensation (DWC) regulates the state's workers' compensation system and certifies employers that want to self-insure.

Texas does not require most private employers to have workers' compensation insurance. Private employers who contract with the government are required to provide workers' compensation coverage for each employee working on the public project. Some clients may also require their contractors to have workers' compensation insurance.

Employers who choose not to have workers' compensation insurance must

- File an annual notice with TDI
- Display notices of non-coverage in the personnel office and throughout the workplace
- Give a written statement of non-coverage to each new employee.

Employers with workers' compensation have some important legal protections, including immunity from most lawsuits by injured workers. If an employer has workers' compensation insurance, a lawsuit may go to court after it's been through TDI's administrative dispute process. The court will consider TDI's recommendations, and only issues in dispute may be used as evidence. Resolved issues cannot be reintroduced. The employer's insurance company pays attorneys' fees and other defense costs.

The benefit of having a workers' compensation insurance policy is it will provide lost wages and medical benefits to your employees if they are injured on the job. Except in cases of gross negligence resulting in a fatality, workers' compensation insurance coverage limits your liability if an employee brings suit against your business for damages.

There are many insurance companies licensed by the Texas Department Insurance (TDI) to sell workers' compensation insurance coverage policies. In addition, some employers may have the option to be certified by the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) to self-insure or participate in a self-insurance group certified by TDI.

For information about the costs and how to purchase workers' compensation insurance coverage:

- The TDI has information on its web site including a rate guide for comparison; or
- You may contact an insurance agent near you.





# REQUIRED FILINGS & AGENCIES

The following agencies administer one or more aspects of employee-related rules and regulations. To determine whether or not you have employees, or for information on contract employees and employee leasing, call the Texas Workforce Commission. For specific laws or statutes, contact the individual agency.

## **TEXAS WORKFORCE COMMISSION 281-933-3858 (1-800-832-9394)**

[www.twc.state.tx.us](http://www.twc.state.tx.us)

12455 Beechnut, Houston. The TWC Tax Office handles Unemployment Insurance Taxes and the State Employment I.D. Number. CALL THE TWC IF YOU HAVE QUESTIONS ABOUT BEING AN EMPLOYER VERSUS A CONTRACTOR. The Payday Law Unit is at 800-832-9243. TWC also administers the Texas Unemployment Compensation Act (TUCA), the Texas Child Labor Law, the Texas Payday Law, and the Texas Minimum Wage Act. UNEMPLOYMENT INSURANCE HOTLINE: 800-558-8321.

## **TEXAS NEW HIRE PROGRAM 1-800-850-6442**

<https://portal.cs.oag.state.tx.us/wps/portal/NewHiresFAQ>

New Hire Reporting is required in all 50 states and is mandated by federal law under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. It requires employers to report new hires and rehires within 20 calendar days of the employee's first day of work. Information received from employers is entered into a statewide registry and then transmitted to the National Directory of New Hires.

## **TEXAS DEPT. OF INSURANCE, WORKERS COMP. DIV. 1-800-252-7031**

[www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html)

507 N. Sam Houston Parkway East, #600. Texas employers, except for public entities, can choose whether or not to provide workers' compensation insurance coverage for their employees. Workers' compensation provides covered employees with income and medical benefits if they are injured on the job or have a work-related injury or illness. Workers' compensation is regulated by the Texas Department of Insurance, Division of Workers' Compensation (the Division). Participation in the workers' compensation system in Texas is voluntary for most employers.

## **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION 713-209-3320 & 1-800-669-4000**

[www.eeoc.gov](http://www.eeoc.gov)

1919 Smith St., 7th Floor. Title VII of the Civil Rights Acts of 1964 and 1991, prohibits discrimination in hiring, promotion, discharge, pay and fringe benefits, on the basis of race color, religion, sex, or national origin. The **AMERICANS WITH DISABILITIES ACT (ADA)**, as pertaining to employment, is enforced by the EEOC. The U.S. Justice Dept. enforces the ADA as it relates to public accommodations and communications. Employers must display the "EEOC Poster" conspicuously in the workplace. The EEOC also enforces the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

## **US CITIZENSHIP AND IMMIGRATION SERVICES 800-375-5283 & 281-847-7900**

[www.uscis.gov](http://www.uscis.gov)

509 North Belt. The Immigration Reform and Control Act of 1986 states that employers should hire only U.S. citizens and aliens authorized to work in the U.S. You must verify employee eligibility for anyone hired after Nov. 6, 1986, and must complete and retain "Form I-9". Call for Handbook M-274. Forms are available by calling 1-800-870-3676.

## **OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION 281-286-0583 & 281-591-2438**

[www.osha.gov](http://www.osha.gov)

17625 El Camino Real, Suite 400. Certain businesses must maintain records on occupational illnesses and injuries and are subject to OSHA inspections. Most businesses with employees must display the "OSHA Poster".

## **U.S. DEPT. OF LABOR, Wage & Hour Division 713-339-5500 (New)**

[www.dol.gov/whd](http://www.dol.gov/whd)

8701 S. Gessner, 11th Floor, 77074. Inquire as to Minimum Wage Requirements, overtime, and child labor recording under the Fair Labor Standards Act. DOL also has Fair Labor Standards Act and Polygraph Protection Act posters for applicable businesses. Inquire about Youth Minimum Wage. The U.S. DOL also enforces the Family and Medical Leave

(FMLA) Act of 1993. The FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons.

## **EMPLOYEE BENEFITS SECURITY ADMIN.**

**1-866-444-EBSA (3272)**

[www.dol.gov/ebsa](http://www.dol.gov/ebsa)

The Employee Benefits Security Administration (EBSA) protects the integrity of pensions, health plans, and other employee benefits. Agency assists workers in getting the information they need to exercise their benefit rights; Assists plan officials to understand the requirements of the relevant statutes in order to meet their legal responsibilities; Develops policies and regulations that encourage the growth of employment-based benefits; Deters and correct violations of the relevant statutes through strong administrative, civil and criminal enforcement efforts to ensure workers receive promised benefits.

## **U.S. SOCIAL SECURITY ADMINISTRATION 1-800-772-1213**

[www.ssa.gov](http://www.ssa.gov)

Each employee must have a Social Security Number to work in the US. Employers must have proof of employees' SSN's to properly report earnings to the Social Security Administration, and to the IRS for income tax purposes.

## **IMAGE PROGRAM- U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

[www.ice.gov/image](http://www.ice.gov/image)

To combat unlawful employment and reduce vulnerabilities that help illegal aliens gain such employment, ICE announced the Mutual Agreement between Government and Employers (IMAGE) program in July 2006. This program assists employers in targeted sectors develop a more secure and stable workforce. It also enhances fraudulent document awareness through education and training.

# **REQUIRED WORKPLACE POSTERS IN TEXAS**

[www.twc.state.tx.us/ui/lablaw/posters.html](http://www.twc.state.tx.us/ui/lablaw/posters.html)

Employers are required by law to display the following posters and/or documents prominently in their place of business. Businesses are responsible for displaying all posters required by law. Call the agencies listed below for posting procedures and availability.

Various state and federal laws require employers to display posters at the workplace. These posters are available, free of charge, from the following agencies. If your employees are entitled to file for state unemployment benefits and are also covered by the Texas Payday Law, you should request the poster that combines both laws.

*NOTE: Some private companies provide "8 in 1" or "Federal, State, and OSHA Compliance Posters (combined format)" posters for a fee. Make sure the posters are included in this format and that they are applicable for your jurisdiction. The City of Houston does not endorse any manufacturer of "8 in 1" or similar posters.*

## **TEXAS UNEMPLOYMENT COMPENSATION ACT and the TEXAS PAYDAY LAW 512-463-2747**

If you prefer, you can fax your request to 512-936-3205. When faxing a request for posters, please include your TWC Account Number, your address for mailing posters, and the number of posters you need printed in English and printed in Spanish (Spanish-language posters are not a requirement). You can also order posters by calling (512) 463-2747.

If your business is not liable under the Texas Unemployment Compensation Act, but as a Texas employer you are subject to the Texas Payday Law, you should request the Payday Law Poster at 1-800-832-9243 or (512) 837-9559 or click on the linked title below.

## **TEXAS PAYDAY LAW POSTER - ENGLISH / SPANISH**

[www.twc.state.tx.us/ui/lablaw/ll10.pdf](http://www.twc.state.tx.us/ui/lablaw/ll10.pdf)

This poster is in PDF format. To download, click on the linked title; to view and print you will need Acrobat Reader, available free of charge from Adobe Systems Incorporated. To print, click on the printer icon within Acrobat Reader.





## **USERRA POSTER**

[www.dol.gov/vets](http://www.dol.gov/vets)

U.S. Department of Labor – The Uniformed Services Employment and Reemployment Rights Act (USERRA). This poster is in PDF format. To download, click on the linked title; to view and print you will need Acrobat Reader, available free of charge from Adobe Systems Incorporated. To print, click on the printer icon within Acrobat Reader.

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

## **FAIR LABOR STANDARDS ACT (FLSA) POSTER (Federal Minimum Wage Poster)**

## **EMPLOYEE POLYGRAPH PROTECTION ACT (EPPA) POSTER**

## **FAMILY MEDICAL LEAVE ACT (FMLA) POSTER**

## **MIGRANT AND SEASONAL AGRICULTURAL WORKER**

## **PROTECTION ACT (MSPA) POSTER**

[www.dol.gov/compliance/topics/posters.htm](http://www.dol.gov/compliance/topics/posters.htm)

U.S. Department of Labor - Wage and Hour Division (DOL) requires the above four (4) posters. An employer is required to post these notices only if covered under that particular Act. If you have any questions concerning coverage, you can go to the Summary of Laws, Regulations and Technical Assistance Services, or call the U.S. Department of Labor, Wage and Hour Division (DOL) toll-free at (866-487-9243). You can contact the nearest Houston DOL district office at (713-339-5500).

## **JOB SAFETY & HEALTH PROTECTION POSTER**

[www.osha.gov/Publications/osha3165.pdf](http://www.osha.gov/Publications/osha3165.pdf)

U.S. Department of Labor/Occupational Safety & Health Administration (OSHA)

You can contact an OSHA office in your area by calling one of the following numbers:

Houston North (281-591-2438)

Houston South (281-286-0584)

## **EQUAL EMPLOYMENT OPPORTUNITY ACT POSTER**

## **AMERICANS WITH DISABILITIES ACT OF 1990 POSTER**

[www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf](http://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf)

U.S. Equal Employment Opportunity Commission (EEOC) (800-669-3362)

## **THE LAW IN TEXAS (PDF) (Optional) 512-463-2642**

[www.twc.state.tx.us/crd/eeoposter.pdf](http://www.twc.state.tx.us/crd/eeoposter.pdf)

Issued by: Texas Workforce Commission - Civil Rights Division

## **TEXAS CHILD LABOR LAWS POSTER 1-800-832-9243**

[www.twc.state.tx.us/ui/lablaw/llcl70.pdf](http://www.twc.state.tx.us/ui/lablaw/llcl70.pdf)

The purpose of the Texas Child Labor Law is to ensure that a child is not employed in an occupation or manner that is detrimental to the child's safety, health, or well-being. Except as specifically authorized by the statute, it is illegal to employ a child under 14 years of age.

## **WORKERS' COMPENSATION POSTERS (English and Spanish)**

[www.tdi.state.tx.us/forms/form20.html](http://www.tdi.state.tx.us/forms/form20.html)

Texas Department of Insurance, Division of Workers' Compensation (512-804-4240)

DO CARRY WORKERS' COMPENSATION INSURANCE AND HOW EMPLOYEES CAN REPORT WORKPLACE SAFETY VIOLATIONS (Notice #6). You will need the form number when ordering poster.

DO NOT CARRY WORKERS' COMPENSATION INSURANCE AND HOW EMPLOYEES CAN REPORT WORKPLACE SAFETY VIOLATIONS (Notice #5). You will need the form number when ordering poster.

## **FEDERAL "ELAWS POSTER ADVISOR" 1-866-487-9243**

[www.dol.gov/elaws/posters.htm](http://www.dol.gov/elaws/posters.htm)

This Advisor will help you determine the posters that must be displayed in your workplace. Since the posters required for a specific business establishment depend on such factors as the nature and location of the business, the number of employees, annual dollar volume, and whether the business has Federal contracts or subcontracts, the Advisor will ask you a series of questions. The Advisor will evaluate your responses, and provide a list of posters you must display and an opportunity to print them.

# TEXAS MINIMUM WAGE LAW

[www.texasworkforce.org/ui/lablaw/tmwsum.html](http://www.texasworkforce.org/ui/lablaw/tmwsum.html)

The Texas Minimum Wage Act, Chapter 62 of the Texas Labor Code, as amended, establishes a minimum wage for non-exempt employees. The current provisions of the Texas Minimum Wage Act are found in Chapter 62 of the Texas Labor Code. It requires covered employers to provide each employee with a written earnings statement containing certain information about the employee's pay. It designates the Texas Workforce Commission (TWC) as the agency responsible for disseminating information about the Act. It contains elaborate provisions concerning agricultural piece rate workers. It exempts a laundry list of employers from its coverage. Finally, the Act provides civil remedies for its violation.

**Texas adopts the federal minimum wage rate by reference**, thus any changes affecting the federal minimum wage will automatically affect the Texas minimum wage for all intended purposes. The 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.

## EFFECTIVE JULY 24, 2009, THE FEDERAL MINIMUM WAGE INCREASED TO \$7.25 AN HOUR.

An employer need not pay an employee who lives on the business premises for on-call time in addition to assigned working hours. Under certain conditions, a sub-minimum wage may apply to a patient or client of the Texas Department of Mental Health and Mental Retardation or to other individuals due to age or productive impairments.

The information employers must provide employees on a written earnings statement is geared to enable employees to determine from a single document whether they have been paid correctly for a given pay period. The TWC is charged with making employers and employees aware of their respective rights, duties, and remedies under the Act.

The Commissioner of Agriculture is authorized to establish piece rates for agricultural commodities commercially produced in substantial quantities in Texas if sufficient productivity information is available. The piece rates are supposed to guarantee at least minimum wage for harvesters of average ability and diligence while allowing harvesters to earn more by producing more. The Act provides a procedure for contesting an established piece rate.

The primary exemption from the 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; domestics; 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; and sheltered workshops.

An employee has two years from the date the wages were due for payment 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.





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facebook.com/houstonobo

For more information, visit [www.houston.tx.gov/obo](http://www.houston.tx.gov/obo) or call 832.393.0600



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