

## Employer Rights and Responsibilities under the Texas Workers' Compensation Act

*For further information about your rights and responsibilities, please refer to the Texas Worker's Compensation Act (Texas Labor Code, Title 5, Subtitle A) and to the administrative rules of the Texas Workers' Compensation Commission. For specific information, please write the Commission at 7551 Metro Center Drive, Suite 100, Austin, TX 78744-1609 or call 1-800-252-7031 to be connected to the field office nearest you or 1-800-372-7713 to contact the Commission's central office.*

### **EMPLOYER RIGHTS**

The Texas Workers' Compensation Act, Texas Labor Code, Section 409.011 provides covered employers the following rights:

- to be present at all administrative proceedings related to a claim
- to present relevant evidence related to a claim at any proceeding
- to report suspected fraud
- to contest the compensability of an injury if the insurance carrier accepts liability for the payment of benefits
- to receive notice, after making a written request to the insurance carrier, of
  - an administrative or a judicial proceeding related to the resolution of a claim; or
  - a proposal to settle a claim
- to contest the failure of the insurance carrier to provide accident prevention services required by the Act.

### **EMPLOYER RESPONSIBILITIES**

#### **1) Reporting Injuries**

***Employer's First Report of Injury:*** You must report to your insurance carrier within 8 days of the date you receive notice or have knowledge of:

- a work-related injury that causes an employee to miss more than 1 day of work
- an occupational illness that you know about, even if the employee has not missed any work
- a work-related death.

**Do not file an Employer's First Report of Injury with the Texas Workers' Compensation Commission unless specifically requested to do so.**

You may report injuries by mail, fax, telephone, or electronic transmission to your insurance carrier. Failure to timely report an injury or illness may result in an administrative penalty not to exceed \$500 to be assessed by the Commission. Send a copy to the injured employee and provide the employee a summary of rights and responsibilities in the wording adopted by the Commission.

You must keep a record of work-related injuries, illnesses, and deaths. Keep the records for at least 5 years from the last day of the year in which the injury, illness, or death occurred, or the period of time required by the Occupational Safety and Health Administration, whichever is greater.

#### **2) Other Reporting Responsibilities**

***Employer's Wage Statement:*** You must report an injured employee's wages and other compensation to your insurance carrier. Send Form TWCC-3, Employer's Wage Statement, to your insurance carrier within 30 days of the date income benefits begin to accrue. Send a copy of the form to the employee. **Do not file the form with the Commission unless specifically requested.**

***Supplemental Report of Injury:*** You must report any changes in an injured employee's pay or employment status to your insurance carrier. Send Form TWCC-6, Supplemental Report of Injury, to your insurance carrier within:

- 3 days of the date the injured employee returns to work;
- 3 days of the date an injury causes the employee to miss additional work after returning to work;
- 10 days of the end of a pay period in which the injured employee's weekly earnings change as a result of the injury;
- 10 days of the date the injured employee resigns or is terminated.

Send a copy of the form to the employee. **Do not file the form with the Commission unless specifically requested.**

If you do not timely send the required forms to the insurance carrier and the injured employee, you could be subject to a penalty of up to \$500 per occurrence for the Employer's Wage Statement and Supplemental Report of Injury.

#### **3) Posting and Notice Responsibilities**

***Notice of Coverage or Change in Coverage:*** You must post notices in your workplace telling your employees that:

- You have workers' compensation insurance and provide the name of your workers' compensation insurance carrier;
- the Commission has staff to explain employees' rights and responsibilities and to help resolve disputes about their claims;
- the Commission has a 24-hour, toll free hotline to report suspected safety violations in the workplace.

Posted notices must be in wording and format adopted by the Commission. If you do not post these notices, you could be subject to a penalty up to \$500.

You must give all of your employees written notice if you cancel your workers' compensation policy within 15 days of the date you cancel your policy or are notified that your insurance carrier intends to cancel your policy. If you do not provide this notice to your employees, you could be subject to a penalty up to \$500 per occurrence.

## Employer Rights and Responsibilities under the Texas Workers' Compensation Act

*For further information about your rights and responsibilities, please refer to the Texas Worker's Compensation Act (Texas Labor Code, Title 5, Subtitle A) and to the administrative rules of the Texas Workers' Compensation Commission. For specific information, please write the Commission at 7551 Metro Center Drive, Suite 100, Austin, TX 78744-1609 or call 1-800-252-7031 to be connected to the field office nearest you or 1-800-372-7713 to contact the Commission's central office.*

**Notice to New Employees:** You must give each new employee at the time of hire a written notice that includes the information in the posted notices. The written notice must also tell new employees that they have the right to choose not to be covered by your workers' compensation policy. Employees have 5 days from the date they begin employment to notify you in writing if they do not want to be covered by your policy. The written notice to new employees must be in wording adopted by the Commission. If you do not provide this notice to new employees, you could be subject to a penalty up to \$500 per occurrence.

**For copies of the required notices, call 512-804-4333, or write TWCC Forms, MS-91, 7551 Metro Center Drive, Suite 100, Austin, TX 78744-1609.**

### 4) Other Responsibilities

**Drug Policy, if required:** If you have 15 or more employees, you must have a policy to eliminate drug abuse in your workplace. You must give a copy of the policy to each employee.

For a free copy of the Commission's Drug-Free Workplace Resource Guide, which includes information on development of a drug-free workplace policy, call 512-804-4624 or write TWCC Health and Safety Resource Center, MS-25, 7551 Metro Center Drive, Suite 100, Austin, TX 78744-1609. The Drug-Free Workplace Resource Guide can also be ordered online under the link to the Resource Center Publications/Videos at our website ([www.twcc.state.tx.us](http://www.twcc.state.tx.us)).

**Accident Prevention Plan, if required:** If you are identified by the Commission as an extra-hazardous employer or identified by the Texas Workers' Compensation Insurance Fund to participate in an injury prevention program, you must adopt an accident prevention plan developed by an approved consultant who may be from the Commission or your insurance carrier, or may be a Commission-approved provider. The initial consultation must occur within 30 days of the date you receive notice that you have been identified to participate in an accident prevention program.

### ADMINISTRATIVE AND CRIMINAL VIOLATIONS

**Fraud:** You could be subject to a penalty up to \$5,000 and possibly referred for criminal fraud investigation if you knowingly or intentionally commit an act to deny workers' compensation benefits to someone legally entitled to receive benefits. You could also be liable for past payments and interest.

**Charge Backs:** You may not charge your workers' compensation premiums back to your employees either directly or indirectly. If you charge premiums back to employees, you could be subject to a penalty up to \$1,000 per violation. Your employees may also recover damages in court.

**Misrepresentation of Payroll:** You could be subject to a penalty up to \$5,000 per occurrence if you intentionally misrepresent your payroll or provide false information to obtain lower insurance premiums. You could also be held liable for missed premiums.

**Discrimination Against Employees:** Texas law prohibits discharging or discriminating against an employee because the employee in good faith filed a workers' compensation claim, hired an attorney, testified, or will testify in a workers' compensation proceeding.