Health & Safety at Work

YOUR LEGAL RIGHTS

Tagalog

1.

How are my health and safety protected in the workplace?

All non-federal employees in California have the right to a safe and healthy working environment under the California Occupational Safety and Health Act (Cal/OSHA). (Federal employees are covered by the Federal OSHA). This law guarantees your right to a safe and healthy workplace and requires that employers take responsibility for ensuring your safety at work.

2.

What are my specific workplace health and safety rights?

Your employer is required to take steps to ensure your safety and health, and to provide you with enough training and protection to do your job safely. Under the law, your rights include:

- The right to be properly trained by your employer about safety on the job.
- The right to be warned about hazardous materials to which you are exposed.
- The right to be given protective gear if you work with hazardous or contaminated materials.
- The right to make a confidential request for an inspection of your workplace by the Division of Occupational Safety & Health for safety and health standard violations.
- The right to file a confidential complaint with the Division of Occupational Safety & Health if you observe or suspect a problem with safety or health at your workplace.
- The right to refuse work that violates legal safety or health standards. *If you are considering exercising this right, consult an attorney to be sure you will be legally protected.*

Your employer may not retaliate against you (e.g., demote or fire you) for your formal or informal complaints about workplace safety or health. You have 6 months from the date of retaliation to file a complaint with the state Labor Commissioner. (Federal employees only have 30 days to file a complaint with Federal Dept. of Labor).

3.

Do I have the right to refuse to do unsafe work?

The California Labor Code (Section 6311) allows you to refuse to perform unsafe work as long as it is hazardous enough that any reasonable person would think his/her health or safety would be in danger by doing the work. The following are some examples of work that would likely create a risk of serious injury:

- Loading scrap metal into a melting kettle with a payloader which has no windshield or enclosed cab.
- Melting and pouring lead that you know has been used to store radioactive substances.
- Working in an environment where there is a possibility of poisoning from inhalation of a potentially lethal gas.
- Driving a truck that is jerking and twisting and is difficult to keep on the road.

Before you refuse to perform unsafe work, however, make sure you inform your supervisor about the unsafe condition, and give the company a chance to correct it. If the company does not correct the unsafe condition, and you decide to refuse the work, make sure that you inform your supervisor, preferably in writing or in front of others, exactly why you are refusing to do the work, and that you will return to work as soon as the condition is fixed. Finally, you should contact Cal/OSHA to file a complaint against your employer.

4.

What information must my employer supply to me about my health and safety rights?

Your employer has to provide information on safety and health hazards in the workplace, and let you know how to protect yourself. At a minimum, each employer has to provide:

- Labels marking all hazardous materials.
- Material Safety Data Sheets (MSDS's) for all hazardous chemicals.
- Training about safety procedures, and about hazards that workers might contact in each job.
- From February 1 to March 1 of every year, posted information about the total number of job-related injuries and illnesses that occurred during that year.
- Posting of Cal/OSHA citations at or near the work area involved. Each citation must remain posted until the violation has been corrected, or for three working days, whichever is longer.
- Notification if employees have been exposed to concentrations or levels of hazardous chemicals exceeding the exposure limits set by Cal/OSHA standards.

5.

Does my employer have to make a special effort to keep my workplace safe?

Yes. Each employer must implement an "injury and illness prevention program" that includes training, ways to correct safety and health problems, and notification to employees about hazards. Your employer has to keep safety and health records and records of any hazardous conditions monitored by your employer. You have the right to see those records, as well as your own medical records. An employer with 11 or more employees also must post the number of job-related injuries and illnesses during the previous year. You also have the right to see the accident logs for the past 5 years.

6.

What can I do if my workplace is unsafe or unhealthy?

- Your first step should always be to talk to your supervisor or employer about the problem and to ask that it be fixed. You have the right to complain about health and safety hazards on the job, and your employer cannot retaliate against you for asserting your right to complain. If there is a union at your job site, you should also discuss the problem with the local union representative.
- If this conversation does not fix the problem, you may want to seek advice about your rights. You can contact the Division of Occupational Safety & Health office in your area. You should also take and keep careful notes about safety and/or health violations, including times, dates, places and names.
- You can make an anonymous/confidential request for an inspection of your workplace by the Division of Occupational Safety & Health. You have the right to be told the results of the inspection and to meet with the inspector after the inspection is completed. If a citation is issued, your employer will have a specified amount of time to correct the problem (the "abatement period"). If you feel the citation does not adequately address the problem, you have 15 days to file an objection.
- You may also file a complaint against your employer for safety or health violations with the state Division of Occupational Safety & Health. It is illegal for your employer to take any action against you for asserting your rights. If you feel that your employer has retaliated against you for filing a complaint, for requesting an inspection, or for complaining about safety or health problems, you should file a complaint with the state Labor Commissioner within 6 months of the retaliation (within 30 if you are a federal employee). Your employer can't retaliate against you for refusing an unsafe job under certain conditions (see #3 above).

7.

What should I do if I am injured?

- Notify your employer: It is important that you tell your employer about your injury to protect your rights. If you are injured on the job, you should immediately report the injury to your supervisor. If your injury or illness developed over a period of time, you should tell your supervisor as soon as you have symptoms and realize that your injury or illness was due to your job.
- Get medical treatment: Get medical treatment as soon as possible. If you injury requires emergency treatment, go to the emergency room. You can see your own doctor if you pre-designated him/her as your treating physician prior to your injury. Otherwise, you must see the company's doctor at least for the first 30 days of your treatment.
  When you see the doctor, be sure to tell him or her that you hurt yourself at work. Give the doctor as much detailed information as you can about your symptoms. The doctor will decide if you need to take time off work or if your work duties and/or hours need to be modified because of your injury.
- Apply for workers' compensation benefits: Within 24 hours of learning about your injury, your employer is required to give you a workers' compensation claim form ("DWC-1") and a pamphlet explaining how to apply for workers' compensation. The claim form is available in English and Spanish. Fill it out and return it to your employer. Benefits include:
  - Medical care for the injury, whether or not time is missed from work;
  - Payment for lost wages, if more than 3 days of work is missed, or if you are hospitalized overnight; and,
  - Other long-term benefits should the injury result in a permanent disability.

It does not matter who was at fault for you injury. Your eligibility for workers' compensation is not dependent upon how long you have held the job, how old you are, if you are employed as a temporary or part-time worker, or if you are a citizen.

If your employer tells you that you are not eligible for workers' compensation benefits or refuses to give you a claim form, contact the State Department of Industrial Relations, Division of Worker's Compensation, Information & Assistance Bureau. The number of your local Workers' Compensation Information & Assistance Bureau can be found in the front of the phone book under "State Government Offices."

8.

What if I am 16 years old or younger and am injured?

Because workers' compensation is designed to protect you, you will be eligible to receive benefits even if you do not have a work permit or are working in an occupation that is prohibited by child labor laws, such as roofing. In fact, your workers' compensation benefits may be increased by 50% if you are under 16 years old and your employer has not complied with applicable child labor laws (such as employing you in a job that is prohibited to someone your age).

9.

Who pays for my medical treatment?

Your on-the-job-injury medical bills are paid by your employer. To receive benefits, obtain a workers' compensation claim form from your employer and ask for information about how to file it with your employer's insurance company. The doctor who is treating you should bill your employer's insurance company.

If your employer refuses to pay and you do not have medical insurance, you can:

- Request a hearing at the Worker's Compensation Appeals Board;
- Find a doctor who will treat you on a "lien basis," which means that the doctor will wait for payment until your workers' compensation claim is settled; or,
- Pay for the treatment and try to obtain reimbursement later.

10.

What if my employer retaliates against me?

It is illegal for your employer to retaliate against you for having an injury or for requesting benefits. Your employer can be fined up to $10,000 for retaliating against you. Retaliation includes firing, threatening to fire, harassing, intimidating, or discriminating against you. If this happens, consult a workers' compensation attorney. You have one year from when you were retaliated against to file a claim.

11.

Am I protected if I complain about workplace health and safety?

Yes. You may not be fired, demoted, transferred to a less desirable job or shift, or threatened or harassed in any way because you complained about a health and safety problem. If you believe that your employer has taken any adverse action against you for asserting a health and safety right or complaint, you should file a complaint with the California Labor Commissioner within 6 months (or 30 days for federal employees filing with the Department of Labor) of the retaliation.

12.

Where can I get more information?

State Employees: You can call the California Department of Industrial Relations, Division of Occupational Safety and Health; the San Francisco office is at (415) 557-1677 (24 hours), or you can find a local number in the state government pages of your phone book.

Federal Government Employees: If you are a federal government employee, you can call the federal office of Occupational Safety and Health at (800) 475-4020 with questions.

For further information about your employment rights, contact the Workers' Rights Clinic.

Disclaimer

This Fact Sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society–Employment Law Center cannot ensure the information in this Fact Sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.