

EMPLOYMENT LAW SUMMARY

Louisiana Workers' Compensation - Employer Responsibilities



Because You're Different

Workers' compensation is a system of no-fault insurance that provides medical care and monetary benefits to employees (or their survivors) for work-related injuries, diseases and deaths. Workers' compensation is governed by state law.

The **Louisiana Workers' Compensation Law** (WCL) imposes specific obligations on employers in the state. The **Louisiana Office of Workers' Compensation Administration** ([OWCA](#)), part of the Louisiana Workforce Commission (Commission), enforces employer compliance with WCL obligations. This Employment Law Summary provides a general overview of these obligations.

COVERAGE REQUIREMENTS

All employers in Louisiana must maintain adequate workers' compensation coverage for their employees at all times. An employer may fulfill this coverage requirement by either:

- Purchasing an approved insurance policy; or
- Obtaining the OWCA's approval to self-insure, either individually or as a group.

Employers must pay the full cost of providing workers' compensation coverage. The WCL specifically prohibits employers from allowing or requiring any employee to contribute to the cost.

INSURANCE POLICIES

In general, employers that choose to cover their workers' compensation liability through an insurance policy must purchase the policy from an entity that is licensed to do business in Louisiana. Exceptions to this may apply for certain employers that:

- Obtain a policy through the services of a full-time employee acting as an insurance manager or buyer;
- Pay an aggregate total of at least \$25,000 in annual premiums for insurance on all risks;
- Have at least 25 full-time employees; or
- Have an existing policy with an insurer that becomes insolvent.

Regardless of the selling entity's in-state business licensing status, all workers' compensation insurance policies sold in the state must be approved by the state insurance commissioner.

In addition, each individual policy must contain specific written indications that:

- The policy is subject to the provisions of the WCL;
- The insurer agrees to promptly pay all benefits that may become payable under the WCL, and that this obligation is not affected by the insured employer's failure to pay a premium after an employee's injury or failure to give any notices required under the policy;
- The employer's notice or knowledge of an employee's injury is also considered to be the insurer's notice or knowledge; and

- The insurer may act in the employer's place in regard to all rights and actions to which the employer is entitled under the WCL.

Every policy must also cover the insured employer's entire liability under the WCL. However:

- A self-insured employer may purchase a partial-coverage policy for liability that exceeds a specific amount that is covered by the self-insurance; and
- If an employer is engaged in more than one business, each separate and distinct business may be covered by separate policies.

Within 30 days after the effective date of any workers' compensation insurance policy, the insured employer must file proof of the coverage with the OWCA. This filing must include the name of each of the employers' business entities operating in Louisiana to which the coverage applies.

SELF-INSURANCE

An employer that chooses to cover its workers' compensation liability through self-insurance must [apply](#) for the OWCA's approval and provide the OWCA with specific forms of proof that it:

- Is currently compliant with the WCL;
- Is financially able to pay benefits under the WCL; and
- Has either contracted with a third-party administrator or has designated a qualified person within the company to handle any employee injury claims.

The OWCA may also require an employer to:

- Deposit security in an amount of at least the average of the employer's yearly claims from the last three years; and
- Provide proof of excess coverage for any portion of its liability that it does not have the financial ability to cover itself.

In addition, certain groups of at least **five or more** employers may agree to pool their resources to self-insure as a group. These employers must apply for approval from the [Louisiana Department of Insurance](#). To meet the minimum eligibility requirements for group self-insurance, all of the employers in the group must be:

- Private entities;
- Members of the same bona fide trade or professional association;
- Financially solvent with a positive net worth; and
- Capable of assuming the obligations set forth under the WCL.

POSTING REQUIREMENTS

The WCL requires employers to post information about workers' compensation in a convenient and conspicuous place within their places of business. The information must include, among other things, the time limits for filing claims for occupational diseases and accidental injuries.

The OWCA has prepared a [notice](#) that employers may use to satisfy these requirements.

INFORMATION REQUIREMENTS

Employers have a general duty to cooperate with the OWCA's workers' compensation administration efforts at all times. This includes a duty to keep all employment records, such as payroll information showing the amount of the employer's wage expenditures and the number of people employed, along with any other information the OWCA may deem necessary for the purpose of administering the WCL, open and available for OWCA inspection upon its request.

Neither an employer nor any other person or entity may be excused from an OWCA in order to provide information or to testify in a workers' compensation hearing based on a claim that the information demanded may tend to be incriminating or may subject the person or entity to penalties or forfeiture. However, no person or entity may be prosecuted, punished or subjected to any penalty or forfeiture for anything other than perjury based on information provided under an OWCA order.

PROHIBITED DISCRIMINATION

The WCL prohibits employers from discriminating against any individual based on the fact that the individual has asserted a claim for workers' compensation benefits under the WCL or any other workers' compensation law. Specifically, an employer may not, on the basis of an individual's workers' compensation claim:

- Refuse to employ any applicant for employment; or
- Discharge an employee from employment.

However, the WCL does not require employers to hire or retain an individual who does not meet the qualifications of a job or who is no longer able to perform the duties of his or her employment due to a work-related injury or disease.

INJURY REPORTING REQUIREMENTS

If an employee is injured at work or sustains an occupation disease, the employer may be required to notify its insurance carrier or third-party administrator, which must then notify the OWCA. Self-insured employers that do not use a third-party administrator may be required to directly notify the OWCA through the [electronic data interchange](#).

Injury reporting requirements apply if an injury or occupational disease results in an employee's **death or absence from work for more than one week**. Employers must use [Form IA-1](#) for this notification.

Form IA-1 must be submitted within **10 days** after the employer first had knowledge of the death or one-week absence resulting from a work-related condition.

EMPLOYEE TESTING AND EXAMINATION

The WCL grants employers the right to require certain tests and examinations of employees, and, under certain circumstances, employers may use the results of these tests or examinations to dispute an employee's claim for workers' compensation benefits. However, these rights may only exist if an employer follows certain obligations that relate to them.

DRUG AND ALCOHOL TESTING

Employers may test employees for drugs and alcohol immediately after a work-related accident, but only if they already have a written substance abuse rule or policy in place. As long as a test is administered according to the employer's pre-established written rule or policy, a positive result for drugs or alcohol may be admissible to disqualify the employee for benefits.

INITIAL POST-INJURY MEDICAL EXAMINATION

Employers may require an employee to undergo an initial post-accident medical examination by a physician of the employer's choice, but only if the employer demands the examination immediately after first obtaining knowledge or notice of the employee's injury. The employer must also provide the employee with a copy of the physician's examination report **within six days** after receiving it.

If an employer does not meet these requirements, it may be required to pay for an examination and report by the employee's own physician, and the OWCA may be required to accept the opinions expressed in the employee's physician's report when determining whether, and the extent to which, the employee is entitled to benefits.

TOXIC SUBSTANCE TESTING

Employers may order or permit an employee to be tested for exposure to toxic substances in the workplace and may use the results to defend an occupational disease claim. However, the employer must provide an employee with the results of any tests **within 30 days** after he or she requests them. An employer that fails to provide these results may be subject to fines and other civil penalties.

MORE INFORMATION

Contact Heffernan Insurance Brokers for visit the OWCA [website](#) for more information on workers' compensation laws in Louisiana.

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