

Non-Covered Employers

Information for Employers from the Division of Workers' Compensation

What is Workers' Compensation Insurance Coverage?

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 Division of Workers' Compensation (DWC).

Participation in the workers' compensation system in Texas is voluntary for most employers. Employers who choose to have workers' compensation insurance may:

- purchase a workers' compensation insurance policy from a private insurance company;
- self-insure, if the employer can meet the requirements to self-insure under the Texas Workers' Compensation Act (the Act) and is certified through the DWC;
- self-insure through the Texas Department of Insurance with a group of same or similar private employers; or
- if a governmental entity, purchase a workers' compensation policy from a private insurance company, or self-insure either individually or as a group.

With few exceptions, workers' compensation insurance limits the employer's liability for a work-related injury or death sustained by the employee.

For additional information, visit the TDI website for:

- information regarding benefits that employees are eligible for: <http://www.tdi.texas.gov/wc/employee/benefits.html>.
- information regarding Employer Rights and Responsibilities: <http://www.tdi.texas.gov/pubs/factsheets/employerr.pdf>.
- information about how to become self-insured through the DWC: <http://www.tdi.texas.gov/wc/si/index.html>.

Non-Covered Employers

[Sections 406.001, 406.002, 406.004, 406.005, 406.033, Rules 110.101, 160.2]

Non-covered employers are employers who **DO NOT** have workers' compensation insurance coverage. Although a Texas employer may choose **not** to have coverage, noncovered employers must comply with certain workers' compensation requirements.

Notice of No Coverage to DWC

An employer who does not have workers' compensation insurance (non-subscriber) must file the DWC Form-005, unless the employer's only employees are exempt from coverage under the Texas Workers' Compensation Act (for example, certain domestic workers, certain farm and ranch workers).

An employer who terminates workers' compensation insurance coverage must also file the DWC Form-005

Failure to file the form when required may subject the employer to administrative penalties.

An employer who uses the DWC Form-005 to file a notice of no coverage must file:

- annually between February 1st and April 30th of each calendar year;
- within 30 days of the employer hiring its first employee, unless this due date falls between February 1st and April 30th and the employer submits the notice within this time period; and
- within 10 days of receipt of a DWC request for filing a notice of no coverage.

An employer who uses the DWC Form-005 to file a notice of termination of coverage must file:

- within 10 days after notifying the insurance carrier of the termination of coverage unless the employer purchases a new policy or becomes a certified selfinsurer; and
- thereafter, the employer must file the DWC Form-005 as a non-subscriber as long as the employer remains in operation and does not have workers' compensation insurance coverage.

Employers can submit the DWC Form-005 to the DWC by:

- filing electronically on the TDI website at: <https://txcomp.tdi.state.tx.us/TXCOMPWeb/common/home.jsp>;
- faxing the form to (512) 804-4146; or
- mailing the form to the address listed at the top of the form (if the filing is for termination of coverage, the submission must be by certified mail).

Notice of No Coverage to Employees

[Sections 406.005 and 406.007, Rule 110.101]

Employers who **DO NOT** have workers' compensation coverage must post written notice at their workplace telling their employees that they do not have workers' compensation insurance. This notice must be in English, Spanish, and any other language that is appropriate.

This notice must be placed in the employer's personnel office (if any) and in a prominent place where employees can see it regularly. The notice must be in the wording and format adopted by the DWC (Notice 5). To obtain Notice 5, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

If this notice is not properly posted in the workplace, an employer will be liable for any administrative violations. All employers who **DO NOT** have workers' compensation insurance must give written notice of non-coverage to new employees upon hire. To obtain the language that must be in this notice, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

The DWC encourages all employers to keep a copy of the notice provided to each new employee. The notice may be signed and dated by the employer and the new employee. If this notice is not provided to new employees, an employer will be held liable for any administrative violations.

Notice Requirements for Change of Coverage

[Section 406.005, Rule 110.101]

When a non-covered employer purchases a workers' compensation policy they are required to notify their employees within 15 days of the policy's effective date.

This notice must be placed in the employer's personnel office (if any) and in a prominent place where employees can see it regularly. The notice must be in the wording and format adopted by the DWC (Notice 5). To obtain Notice 5, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

from the Division of Workers' Compensation can see it regularly. The notice must be in the wording and format adopted by the DWC (Notice 6). To obtain Notice 6, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

If this notice is not provided to employees, an employer will be held liable for any administrative violations.

Notice of Non-Covered Employer Report of Injury, Illness or Fatality

[Sections 411.032 and 406.091, Rule 160.2]

Non-covered employers that have more than four (4) employees are required to report to the DWC:

- any work-related injuries that cause an employee to miss more than one (1) day of work, all occupational illnesses, and
- all fatalities that occur at the work place.

All employees are included under this requirement with the following exceptions:

- a domestic worker;
- casual worker engaged in employment incidental to a personal residence;
- certain farm and ranch workers; or
- workers covered by a method of compensation established under federal law.

Reportable injuries, illnesses and fatalities must be filed with the DWC monthly, using the *Non-covered Employer's Report of Occupational Injury or Illness* (DWC Form-007). The completed DWC Form-007 reporting all such injuries that have occurred during a calendar month must be filed no later than the seventh (7th) day of the month following the month in which:

- a work-related death occurred,
- an employee was absent from work for more than one day as a result of an on-the-job injury; or
- the employer acquired knowledge of an occupational disease.

To obtain a copy of the DWC Form-007 and information for non-covered employers, visit the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

For more information on workers' compensation for employers see the following facts sheets:

- Employers Rights and Responsibilities