



Texas Department of Insurance

Division of Workers' Compensation, Office of the Commissioner
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MEMORANDUM

DATE: December 14, 2007

TO: Texas Employers Not Carrying Workers' Compensation Insurance

FROM: Albert Betts, Commissioner of Workers' Compensation

RE: Non-Coverage and Injury Reporting Requirements

Recent legislation requires the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) to report biennially to the Texas Legislature information about employer non-coverage, work-related occupational injuries and illnesses, employer compliance with reporting requirements outlined below and administrative penalties assessed against non-complying employers. The first report to the Legislature is due December 2008. TDI-DWC will also use the information collected to better understand safety and health issues affecting all Texas employers, and it will assist the agency in providing appropriate educational information and accident prevention resources to employers.

Texas employers who do not carry workers' compensation insurance coverage are required to report their non-coverage status and work-related injuries and illnesses to TDI-DWC. Employers also are required to notify their employees if they do not carry workers' compensation insurance.

Employers Reporting No Workers' Compensation Insurance Coverage to TDI-DWC

Texas Labor Code requires all employers in Texas that do not carry workers' compensation insurance to notify TDI-DWC in writing. See Texas Labor Code §406.004(a). Employers should report this information using the form *Employer's Notice of No Coverage or Termination of Coverage* (DWC Form-005):

- within 30 days after hiring an employee;
- within 30 days after receipt of a TDI request (within ten days for employers principally located outside of Texas); or
- within 10 days of notifying their workers' compensation carrier of their intent to cancel the policy, unless the employer purchases a new policy or becomes a certified self-insurer.

Employers must also file DWC Form-005 annually on the anniversary date of the original filing for as long as they remain in operation and do not carry workers' compensation insurance. An employer's failure to comply with the notification requirements above is an administrative violation and the employer may be subject to penalties. See Texas Labor Code §406.004(e).

Reporting Injuries and Illnesses to TDI-DWC

Employers are required to notify TDI-DWC of each injury or illness. See Texas Labor Code §411.032(a). Agency rules require employers with five or more employees to report occupational injuries or illnesses to TDI-DWC. Employers must report each work-related injury or illness by the seventh day of the following month. See 28 Texas Administrative Code (TAC) §160.2. Non-covered employers should report these injuries and illnesses using the form *Non-Covered Employer's Report of Occupational Injury and Illness* (DWC Form-007) for each:

- work-related injury resulting in the employee's absence from work for more than one day; and
- occupational disease of which the employer has knowledge.

An employer's failure to comply with these occupational injury and illness reporting requirements is an administrative violation and the employer may be subject to penalties. See Texas Labor Code §411.032(c).

Reporting No Workers' Compensation Insurance Coverage to Employees

Employers are required to notify their employees whether or not they carry workers' compensation insurance. See Texas Labor Code §406.005. TDI-DWC rules require employers to use the language in the *New Employee Notice* when notifying their employees in writing at the time of hire. See 28 TAC §110.101, Subchapter B.

The Notice 5, *Notice to Employees Concerning Workers' Compensation in Texas* must be used when posting notification of the employer's coverage status in the following instances:

- notices regarding coverage status must be posted at conspicuous locations at the employers' place of business; and
- changes in coverage status (obtained, terminated, or canceled) must be communicated to employees no later than the 15th day after the effective date of the change.

An employer's failure to comply with these notification requirements to employees is an administrative violation and the employer may be subject to penalties. See Texas Labor Code §406.005(e).

The DWC Form-005, DWC Form-007, *New Employee Notice* and Notice 5 can be found online at <http://www.tdi.state.tx.us/forms/form20employer.html> . If you have any questions regarding reporting requirements or compliance with the law, contact TDI-DWC at 512-804-INFO(4636), or toll-free 1-800-372-7713 extension 4636.

Your cooperation is both appreciated and expected.