



## #1 Free Legal Website

FindLaw.com is the leading and largest online resource for legal information. For basic legal issues to more complex ones, you'll find thousands of helpful articles, a legal community to get answers to your specific questions, an attorney directory, blogs, news, DIY forms, and much more.

### **Workers' Comp: Employers' Responsibilities**

In most states, employers are required to purchase insurance for their employees from a workers' compensation insurance carrier. In some states, larger employers who are clearly solvent are allowed to self-insure, or act as their own insurance companies, while smaller companies (with fewer than three or four employees) are not required to carry workers' compensation insurance at all. When a worker is injured, his or her claim is filed with the insurance company, or self-insuring employer, who pays medical and disability benefits according to a state-approved formula.

Unless they fall within limited, exempt categories, employers without workers' compensation insurance are subject to fines, criminal prosecution, and civil liability.

#### **Penalties**

Failure to provide workers' compensation insurance coverage can result in:

- Fines;
- Criminal prosecution;
- Personal liability of the employer for any workers' compensation benefits due injured workers; and,
- An employee's exercising the option to sue the employer rather than file a compensation claim.

#### **Duties**

In addition to providing workers' compensation coverage, in most states, employers must perform some, if not all, of the following duties:

- Post a notice of compliance with workers' compensation laws in a conspicuous place at each job site;
- Provide immediate emergency medical treatment for employees who sustain on-the-job injuries;
- Furnish further medical attention if an injured worker is unable to select a doctor or advises the employer in writing of a desire not to do so;
- Complete a report of the injury and mail it to the nearest workers' compensation board office. A copy of the report should also be mailed to the employer's insurance company. An employer who refuses or neglects to make an injury report may be guilty of a misdemeanor, punishable by a fine;
- Make a written report of every accident resulting in personal injury that causes a loss of time from regular duties beyond the working day or shift on which the accident occurred or that requires medical treatment beyond first aid or more than two treatments by a doctor or persons rendering first aid;
- Comply with all requests for further information regarding injured workers by the workers' compensation board or the insurance company, such as statements of the employee's earnings before and after the accident, reports of the date of the employee's return to work, or other reports that may be required to determine the employee's work status following the injury.

#### **Employer's Duty Not to Retaliate**

Although workers' compensation laws provide remedies to injured employees, they also protect employers, as they are designed to be the only remedy that injured employees may seek from their employers. Even so, employers often appear to frown on employees who file workers' compensation benefit claims, and some blatantly discriminate against such employees. To protect employees from employers who discriminate against, harass, or unjustly terminate injured employees, many states prohibit employers from punishing, discriminating against, or discharging employees who exercise their rights under workers' compensation laws, and allow employees to bring civil actions against their employers for the tort of "retaliatory discharge."

If an employee believes he or she has been discriminated against or discharged in retaliation for exercising rights under workers' compensation laws, he or she may have a claim against his or her employer for retaliatory discharge. In a retaliatory discharge suit, the employee must convince a judge or jury that it was more likely than not that he/she was wrongfully terminated. However, the employee does not have to prove that the workers' compensation claim is the sole reason for the discharge. The test is usually whether the employer's action is rooted substantially or significantly in the employee's exercise of rights under workers' compensation laws.

Besides termination, retaliation may take the form of more subtle types of discriminatory treatment, such as demotion or salary reduction. Injured employees are protected from discriminatory conduct immediately after an injury and before a formal workers' compensation claim is filed. An employee's cause of action may be successful even though all the employee did was give notice to the employer of a claim.

# FINDLAW.COM EMPOWERS PEOPLE WITH TRUSTED, TIMELY AND INTELLIGENT LEGAL INFORMATION

**BLOGS** – FindLaw Blogs present timely news that has real-life implications, deliver important information and discuss law-related entertainment.

**FINDLAW ANSWERS** – A vibrant, interactive online community where everyday people can ask legal questions and get real-time answers from legal professionals and others with similar experiences.

**NEWS & NEWSLETTERS** – Updated throughout the day and night and covering a wide range of legal topics, FindLaw.com's News page presents current legal news, keeping people informed and educated.

**FIND A LAWYER** – An easy-to-search database of more than one million lawyers and law firms. It provides detailed information, enabling people to contact a qualified lawyer when they are ready.



**DO-IT-YOURSELF FORMS & CONTRACTS** – FindLaw.com provides accurate legal documents for common legal matters. Choose from a library of easy-to-use, low-cost, accurate legal forms for everyday legal issues.

**FINDLAW VIDEO** – On FindLaw.com, you'll find an online directory of more than 1,500 short videos dedicated exclusively to legal topics and attorney and law firm profiles.

## Connect With Us

FindLaw.com has an entire social media team dedicated to providing our users with as many options as possible to join, participate in, and learn from the FindLaw community. Some of the social key channels are the following:



[FindLaw for Consumers on Facebook](#)

Making the law easy to access with interactive legal updates aimed at starting conversations, informing followers of their legal rights and providing a forum for questions and resources



[@FindLawConsumer on Twitter](#)

Tweeting interesting, entertaining and informative legal news everyday

HAVE A LEGAL QUESTION?  
NEED TO FIND AN AFFORDABLE,  
QUALIFIED ATTORNEY?

Protect yourself, your family or  
your business with a legal plan  
or form from LegalStreet

[www.LEGALSTREET.com](http://www.LEGALSTREET.com)

Copyright © 2013 FindLaw, a Thomson Reuters business. All rights reserved. The information contained in this article is for informational purposes only and does not constitute legal advice. The use and distribution of this article is subject to the Creative Commons BY-NC-ND license, which can be viewed at <http://creativecommons.org/licenses/by-nc-nd/3.0/>. You must attribute the article by providing the title of the article, FindLaw copyright notice and link to the original work. You may not use the article for commercial purposes and you may not alter or transform this article in any way.

**FindLaw**<sup>®</sup>  
A Thomson Reuters Business