



Texas Department of Insurance

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Texas Workers' Compensation Nonsubscriber Employers Reporting Requirements Change on January 1

AUSTIN, TX — Effective January 1, 2013, Texas employers who do not carry workers' compensation insurance coverage have new requirements for reporting their non-coverage status to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC), the state agency responsible for regulating workers' compensation, and to their employees. In addition, they are required to report work-related injuries and occupational illnesses to the TDI-DWC. An employer's failure to comply with these notification requirements is an administrative violation and the employer may be subject to penalties [Texas Labor Code §406.004(a) and (e), §411.032(a) and (c), and Chapter 415, Subchapter C].

All employers in Texas that do not carry workers' compensation insurance and whose employees are not exempt from coverage under the Texas Workers' Compensation Act are required to notify the TDI-DWC by filing the recently revised DWC Form-005, *Employer Notice of No Coverage or Termination of Coverage*. For notices required to be submitted to the TDI-DWC on or after January 1, 2013, employers must file the DWC Form-005:

- annually between February 1st and April 30th of each calendar year as long as the employer remains in operation and does not have workers' compensation insurance coverage (covering a notice period of May 1st of the year of notice submission through April of the subsequent 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 TDI-DWC request for filing a notice of no coverage.

An employer reporting **notice of termination of coverage** must file the DWC Form-005:

- within 10 days after notifying the insurance carrier of the termination of coverage unless the employer purchases a new policy or becomes a certified self-insurer; and
- annually thereafter, on the anniversary of the cancellation date of the workers' compensation policy as long as the employer remains in operation and does not have workers' compensation insurance coverage.

Employers will be required to file the revised DWC Form-005 with the TDI-DWC on and after January 1, 2013. Non-coverage status can be reported online on the TDI website at <https://txcomp.tdi.state.tx.us/TXCOMPWeb/common/home.jsp> under "Employer Online Filings."

Employers completing the DWC Form-005 online will be required to supply the business name, business type, Federal Employer Identification Number and details on business locations or updated information on business locations. Hard copies of the revised form are available for download from the TDI website. The DWC Form-205, *Locations of Employer's Business(es)*, is also available for download from the TDI website. This form is filed as an attachment to the DWC Form-005.

(more)

In addition to reporting non-coverage status to the TDI-DWC, employers are required to notify their employees that they do not carry workers' compensation insurance coverage. An employer must post the recently revised *Notice to Employees Concerning Workers' Compensation in Texas* in their workplace in English, Spanish and any other language common to the employer's employee population in the print type specified by TDI-DWC rules by January 1, 2013 and whenever the employer:

- elects to not have workers' compensation insurance;
- cancels or terminates workers' compensation insurance;
- withdraws from certified self-insurance; or
- has its workers' compensation coverage cancelled by the insurance company.

Employers must also provide a written copy of the recently revised *Notice to Employees Concerning Workers' Compensation in Texas* to each employee:

- at the time of hire;
- when the employer elects to not have workers' compensation insurance;
- within 15 days of notification to the insurance carrier that the employer is terminating workers' compensation insurance coverage unless the employer maintains continuous workers' compensation insurance coverage under a new policy or becomes a certified self-insurer; or
- within 15 days of cancellation of the employer's workers' compensation insurance coverage by the insurance company.

Texas employers with five or more employees who are exempt from workers' compensation coverage under Texas Labor Code §406.091 are also required to report work-related injuries and illnesses to the TDI-DWC. Employers must report each work-related injury or illness by the seventh day of the following month using the DWC Form-007, *Non-Covered Employer's Report of Occupational Injury and Illness*, for each:

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

All employees are included under this requirement except domestic workers; casual workers engaged in employment incidental to a personal residence; certain farm and ranch workers; and employees covered by a method of compensation established under federal law.

Workers' compensation insurance coverage provides covered employees with income and medical benefits if they sustain a work-related injury or illness. Most Texas private employers can choose whether or not to provide workers' compensation insurance coverage for their employees. Except in cases of an intentional act or omission or gross negligence involving a fatality, workers' compensation insurance limits an employer's liability if an employee brings suit against the employer for damages.

Copies of the DWC Form-005, DWC Form-007, DWC Form-205 and *Notices to Employees Concerning Workers' Compensation in Texas* are available for download from the TDI website at www.tdi.texas.gov/forms/form20.html.

New and amended rules Texas Administrative Code §§160.1-160.3 as adopted by the Commissioner of Workers' Compensation may be viewed on the Secretary of State website at <http://www.sos.state.tx.us/texreg/index.shtml>.

If you have questions about employer workers' compensation reporting requirements, contact the TDI-DWC's Insurance Coverage section at 1-800-372-7713.

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