

This booklet provides general information and is not meant to serve as legal advice. It was developed by the Department of Industrial Relations and its Labor Enforcement Task Force with assistance from the Labor Occupational Health Program at UC Berkeley.

Illustrations by Mike Konopacki
Design by Cuttriss and Hambleton

All workers have rights in California



Department of Industrial Relations
Labor Enforcement Task Force

Christine Baker, Director
Julie A. Su, Labor Commissioner
Juliann Sum, Chief of Cal/OSHA



About the Labor Enforcement Task Force (LETF):

The Labor Enforcement Task Force, under the direction of the Department of Industrial Relations, is a coalition of California state government enforcement agencies that work together and in partnership with local agencies to combat the underground economy. In this joint effort, information and resources are shared to ensure employees are paid properly and have safe work conditions and honest, law-abiding businesses have the opportunity for healthy competition.

Members of the Labor Enforcement Task Force (LETF):

Alcoholic Beverage Control (ABC)
Board of Equalization (BOE)
Bureau of Automotive Repair (BAR)
California Department of Insurance (CDI)
Contractors State Licensing Board (CSLB)
Division of Labor Standards Enforcement (DLSE)
Division of Occupational Safety & Health (Cal/OSHA)
Employment Development Department (EDD)
State Attorney General (DOJ)

All workers have rights on the job.

In California, workers are protected by labor laws. It does not matter where you were born or what your legal status is. Once you are hired, you have rights.

In this booklet, you will find information on your rights as workers, including:



Wages and Breaks

Veronica works as a janitor cleaning office buildings. She was working up to **13-14** hours a day and making less than minimum wage. Her employer paid her a single flat rate for each day of work and said she was an “independent contractor.” He said this even though it was his janitorial business, and he controlled all aspects of her work, including when and how long she worked, what tasks she performed, and what she wore.

Veronica asked about her rights and learned that legally she was an employee of the janitorial business and entitled to minimum wages and overtime. She filed a claim with the Labor Commissioner and eventually obtained several thousand dollars in back pay. The employer was also cited and fined by the Labor Commissioner and other LETF agencies for not having workers’ compensation, not paying employment tax, and other violations.

Note: This example reflects a typical scenario.

Employers are required to pay workers what they are owed and provide rest and meal breaks. Not doing so is called wage theft.

Employers must:

1 Pay at least the minimum wage, which is:

- For businesses with 26 or more employees, **\$10.50** per hour in **2017** and **\$11** per hour in **2018**
- For businesses with 25 or fewer employees, **\$10** per hour in **2017** and **\$10.50** per hour in **2018**
- Higher in some cities (including San Francisco and San Jose)

If you are paid by the piece or unit (sometimes called “by contract”) or paid by the day or week, your wages still must equal at least minimum wage for all the hours you worked.

Tips are separate and cannot be counted as part of the minimum wage.

A few types of employees do not have to be paid minimum wage, including outside salespersons, close family members and camp counselors.

2 Pay overtime equal to 1 1/2 times the regular rate of pay:

- *For most occupations*, all hours over **8** in one day or over **40** in one week, and for the first eight hours of work on the seventh day of work in a workweek
- *For personal attendants*, all hours over **9** in one day or over **45** in one week
- *For farm workers*, all hours over **10** in one day or over **60** in one week, and for the first eight hours of work on the seventh day of work in a workweek

3 Pay doubletime:

- *For most occupations*, all hours over **12** in one day or over eight on the seventh day of work in a workweek

Wages and Breaks

Example: If you are a dishwasher making \$10 per hour and work 13 hours in one day, you must be paid:

• \$10 per hour for the first 8 hours	=	\$80
• \$15 per hour for the next 4 hours	=	\$60
• \$20 per hour for the last hour	=	\$20
• Total for 13 hour day	=	\$160

- For farm workers, all hours over eight on the seventh day of work in a workweek

Some occupations have different overtime rules and some types of workers are exempt from overtime.

- 4 Provide a **paid 10 minute rest break** for every 4 hours of work
- 5 Provide a **meal break of at least 30 minutes** after no more than 5 hours of work



You have the right to take breaks.

- 6 Pay employees (with certain limited exceptions) at least twice a month on designated regular paydays. With each payment of wages, whether by cash or check, the employer **must provide a wage stub** or statement with the following information: pay period dates; gross wages earned; total hours worked; breakdown of hourly rates and hours worked at each rate; piece rate information if applicable; all deductions; net wages; name and ID number of employee; and legal name and address of employer.

A copy of the state's Wage Order for your occupation or industry should be posted in a place where it can be easily seen and read by employees, such as in a break room.



Keep track of your work hours.

What you can do if you have questions or think there may be a problem:

- **Keep track of your work hours and pay.** Every day, write down the date, when you start and end work, when you take breaks, the total hours worked, and what you are supposed to be paid (by hour or by piece or contract rate). Compare this with the information shown on your pay stubs.
- **Tell your employer.** You have a right to tell your employer, or complain if necessary, if you think you are not getting what you are entitled to under the law. *It is illegal for any person to discharge, discriminate, retaliate, or take any other adverse action against an employee for making such a complaint in good faith.*
- **Know who your employer is.** Write down the names of the people who hire you, pay you, or supervise you. Find out the name and address of the company by looking at pay stubs and other information that may be available at the job site.

- **Don't wait too long.** Don't wait to speak up and don't delay in filing a claim because there are time limits, and it is easier to prove you are owed wages or benefits when events are close in time. Generally, you have **3** years to bring a formal claim, but sometimes you have less time and sometimes more.



Get help

- **Contact the Labor Commissioner.** To contact the Labor Commissioner's office, see page 18. You can obtain information about your rights. You can also file a claim to get wages you are owed and possibly additional payments for having to wait for your wages or for not getting breaks to which you were entitled.

More information is also available on the Labor Commissioner's website at www.dir.ca.gov/DLSE/dlse.html.

- **Call a worker organization or legal aid group.** They may be able to advise you on your rights and help you decide what actions to take.

Paid Sick Leave

You may be eligible for Paid Sick Leave. Starting July 1, 2015, employers must:

- **Provide at least 24 hours or three days of paid sick leave** for each eligible employee to use per year.
- Allow eligible employees to **use accrued paid sick leave.**
- **Show how many days of sick leave** an employee has available. This must be on a pay stub or a document issued the same day as a paycheck.

Safety and Health

As a garment worker Jose presses decals onto t-shirts using a **400** degree hot iron press machine and has burned himself several times on the equipment. He learned that his co-workers almost had their fingers cut off from the cloth cutting machines because of the unguarded blade. Despite these incidents the employer never did anything to eliminate the hazards.

When Cal/OSHA inspected the workplace they shut down several cloth cutting machines and made the company provide gloves to protect the workers' hands from burns. The employees also learned from the inspection about being poked with tagging gun needles and the danger of catching a bloodborne disease from another worker who was poked with the same needle.

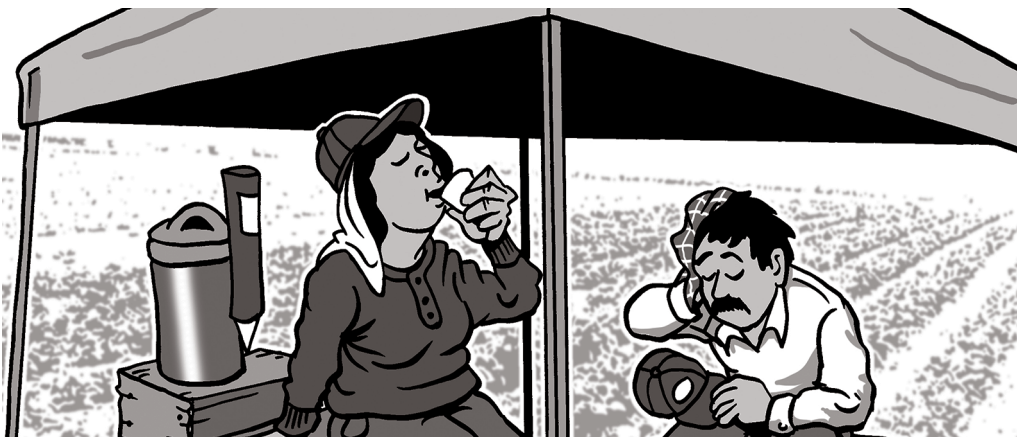
After the Cal/OSHA investigation the employer was cited for **8** violations and required to repair the various machines. In addition, a protective policy is now in place.

Note: This example reflects a typical scenario.

Most injuries on the job can be prevented, and employers are responsible for keeping the workplace safe.

Your employer is required to keep you safe at work. To help prevent injuries on the job, employers must:

- 1 **Make sure the workplace is safe** by identifying health and safety hazards and correcting them.
- 2 **Have a written health and safety plan.** This is sometimes called an Injury and Illness Prevention Program.
- 3 **Tell you about workplace hazards and train you how to work safely.** The training must be presented in a way that you understand.
- 4 **Have Workers' Compensation insurance** and pay for medical care for work-related injuries and illnesses.
- 5 **Keep track of all workplace injuries and illnesses** that require more treatment than first aid. Certain employers must keep a log of injuries and illnesses and post a summary from February to April.
- 6 **Post the Cal/OSHA poster, Safety and Health Protection on the Job,** in a place where everyone can see.
- 7 **Call Cal/OSHA right away** when an employee is killed or seriously injured on the job.



Employers must provide what is needed to keep you safe.

Cal/OSHA regulations describe what employers must do to protect workers from specific hazards. These regulations can be found in Title 8 of the California Code of Regulations, and on Cal/OSHA's website at www.dir.ca.gov/title8/index/T8index.asp. Employers have to follow these laws and regulations, or Cal/OSHA can fine them.

What you can do:

Worksites are safer when workers are involved, and the law protects you when you speak up about safety. You have the right to:

- Ask for information about things you think are dangerous
- Talk about health and safety problems with your coworkers or supervisor
- Make suggestions for a safer workplace
- Report safety problems and injuries to your supervisor
- Refuse work that could put your life in danger or cause serious injury
- Report problems to Cal/OSHA.



The law protects you when you speak up about safety.



Get help:

- **Report problems to Cal/OSHA.** To contact Cal/OSHA, see page 18. Cal/OSHA, the state workplace safety and health agency, inspects workplaces and can fine employers and require them to fix problems. Cal/OSHA will never give your name to the employer. You can even call them without giving your name.
- **Call a worker organization or legal aid group.** They may be able to advise you on your rights and help you decide what actions to take.

It is illegal for your employer to fire you or discriminate against you at work for making a good faith complaint about an unhealthy or unsafe condition.

Right to Take Action

Chen is a waiter at a restaurant. He worked long days and was not allowed to take breaks.

LETF investigators conducted an investigation at his worksite and Chen was one of the workers interviewed. After LETF left, the employer fired him for speaking with the investigator.

Chen called the investigator he spoke with. The investigator sent the complaint to the Labor Commissioner's Office Retaliation unit. An investigator from the retaliation unit called the employer and sent a letter to let him know what he had done was illegal. Chen got his job back without losing pay or benefits. The employer was also required to post a notice informing all employees that it is illegal to retaliate against employees who talk to state investigators or exercise other legal rights.

Don't be afraid to speak up to an investigator when they conduct an investigation of your employer. You may contact the LETF hotline anytime to file a complaint.

Note: This example reflects a typical scenario.

You have the right to tell your employer about your rights as an employee. You also have the right to complain or file a claim with the state if you think your employer is violating those rights. It is illegal for your employer to fire you or punish you for taking these actions.

Workers may have concerns:

“My boss told me I’m not an employee.”

Sometimes, employers call workers “independent contractors” to cut corners and avoid paying taxes. Even if your employer does this, you may be an employee under the law and have all the rights as an employee.



If you have concerns, get help.

“I am not a citizen.”

You are protected by labor laws whether or not you are legally in the United States. If you call a state agency to report a problem, they will not ask you about your immigration status. It is also against the law for your employer to threaten you because of your immigration status.

“I’m afraid I will lose my job if I speak up.”

There may be dangers to speaking up about working conditions but it is illegal for your employer to punish you for doing so. You can also take steps to protect yourself.

Taking action can be difficult, but the law protects you.

You may be worried about how your employer will respond. But the law is on your side and there are steps you can take to protect yourself.

1. The law is on your side.

The law says you are protected when you:

- Speak up about wages that are owed to you
- Report an injury or a health and safety hazard
- File a claim or complaint with a state agency
- Join together with other workers to ask for changes.



You can join with other workers to ask for changes.

The law says it is illegal for employers to threaten or retaliate against you for taking these actions.

For example, employers cannot retaliate by:

- Firing you or sending you home
- Changing your assignment to give you less desirable tasks or shifts
- Threatening you with deportation
- Preventing you from getting another job.

2. You can take steps to protect yourself:

- **Talk to your co-workers.** Work together to plan what to do. You may have more power and more legal protections acting together as a group.
- **Get help.** A worker organization or legal aid group may help you understand your rights, suggest ways to address the problems, and help you decide whether to speak to your employer and what to say.
- **Take notes.** If you speak to your employer, write down when you met, who was there, and what was said.
- **Report problems to the state agencies.** You may decide it's not safe to talk to your employer. You can report a problem directly to an agency.



3. Get help

- **Report any retaliation to the Labor Commissioner.** To contact the Labor Commissioner's office, see page 18.

In most cases, you must file a retaliation complaint within **6** months. If retaliation is found, the Labor Commissioner can help you get any wages or other payments you are owed. You may also be able to get your job back.

- **Contact a worker organization or legal aid group.** They may be able to advise you on your rights and help you decide what actions to take.

The law protects workers who assert their legal rights or report unsafe working conditions.

Benefits If You Are Injured or Unemployed

If you are injured on the job...

Your employer must pay for medical care for injuries and illnesses related to work. You may also get weekly payments. This is called workers' compensation. It doesn't matter who was at fault for the injury. In most cases, you can get benefits even if you are a temporary or part-time worker. You have a right to workers' compensation regardless of your immigration status.

What to do if you get ill or hurt on the job:

- **Ask for medical help right away. If it's an emergency, call 911** or go straight to an emergency room.
- **Tell your employer.** Your employer must give you a claim form within one working day after hearing about your injury (from you or anyone else). Along with this form, the employer must give you notice of your rights when claiming workers' compensation benefits. You can also obtain a claim form from any office of the Division of Workers' Compensation or the Employment Development Department.
- **Get help and information from the Division of Workers' Compensation** at 1-800-736-7401.
- **If your employer refuses to give you a claim form or threatens or discriminates against you because you are injured or made a job injury claim,** you may wish to see an attorney who represents employees in workers' compensation cases. If an attorney takes your case, he or she can only charge a small percentage fee (15% or less) that will be deducted from cash benefits owed to you.



If you are injured, you have the right to medical care.

If you are unemployed... You may be able to receive unemployment insurance benefits while you are unemployed (or working less than full time) and are ready, willing, and able to work. Call the Employment Development Department (EDD) at **1-800-300-5616**.

If you are disabled... You may be able to receive state disability insurance benefits if you are unable to work because of sickness, injury, or pregnancy, including while you are waiting to receive workers' compensation benefits. Call EDD at **1-800-480-3287**.

If you need to care for your family... You may be able to receive paid family leave if you care for an ill family member or a new child. Call EDD at **1-877-238-4373**.

Where to get help or report a problem

There are several state agencies in California that work to make sure employers are following labor laws. Your immigration status does not matter. They will not ask you about your immigration status. The agencies have staff who speak other languages, or they will get an interpreter.

You can also get help from a worker organization or legal group to report a problem to any of these agencies.



If you work in the restaurant, agriculture, auto body, construction, or garment industry:

1-855-297-5322
(toll free)

Call the **Labor Enforcement Task Force (LETF)**. LETF is a joint program bringing together several state agencies. They work together to make sure employers in these industries are following labor laws.

Go to: www.dir.ca.gov/letf for help.

For wages or rest and meal breaks or retaliation:

1-844-LABOR-DIR
(toll free statewide
line with information in
English and Spanish)

Contact the **Labor Commissioner**, also known as the Division of Labor Standards Enforcement. Go to: www.dir.ca.gov/dlse/DistrictOffices.htm to find your local office.

For safety and health:

1-844-LABOR-DIR
(toll free statewide
line with information in
English and Spanish)

Report a hazard to **Cal/OSHA** by calling or faxing a complaint form or going in person to your local Cal/OSHA office. Go to: www.dir.ca.gov/asp/DoshZipSearch.html to find your local office.

For an injury or illness due to work:

1-800-736-7401

Call the **Division of Workers' Compensation**, Information and Assistance line. Go to: www.dir.ca.gov/dwc/ContactDWC.htm to find your local office.

For benefits:

1-800-300-5616
(if you are unemployed)

Contact the **Employment Development Department (EDD)** about certain benefits you may be able to receive. Go to: www.edd.ca.gov for help.

1-800-480-3287
(if you are disabled)

1-877-238-4373
(if you need to care for
a family member)



To find a **worker organization, union, or legal aid group:**

- Ask co-workers, friends, and family for ideas.
- Check the phone book under “Legal clinic” or “Labor Organization” or “Community Organization.”
- Go to www.lawhelpca.org to find a legal group and lawyers that can help you.
- Call **211** for free information. Ask if they serve your area. Ask for a community group that helps workers with work-related problems.

When you call a state agency, give as much information as you can about the specific problem, your worksite and your employer.

