

PUBLIC EMPLOYEE OSHA LAWS

WHAT IS OSHA?

The Occupational Safety and Health Act (OSH Act) became federal law in December 1970. In April, 1971 the Occupational Safety & Health Administration (OSHA) was established. The law was passed to guarantee workers a safe and healthful workplace. However, **millions of state and local government workers are still not covered by basic job safety laws.**

WHICH PUBLIC EMPLOYEES ARE COVERED BY OSHA LAWS?

Federal OSHA applies to private sector workers. It does not cover state and local government employees. States may opt to run their own state OSHA programs instead of being covered by the federal government, but **state programs approved by federal OSHA must cover both the private sector and state and local government workers.** Twenty-two states have federally approved OSHA programs that cover public employees (**AK, AZ, CA, HI, IN, IA, KY, MD, MI, MN, NV, NM, NC, OR, PR, SC, TN, UT, VT, VA, WA, WY**). Four states **CT, IL, NJ, NY and the Virgin Islands** have federally approved state programs that apply only to state and local government workers, and private sector workers are covered by federal OSHA. Approved state OSHA programs must be at least as effective as the federal program and provide similar protections for workers.

Several other states administer job safety laws that cover only state and local government workers that are **not federally approved.** A number of other states have “**Right-to Know**” (**R-T-K**) laws that require employers to provide information and training to state and local government workers about hazardous chemicals used on the job.

Federal workers are covered by their agencies under a Presidential Executive Order. Federal agencies (except for the U.S. Postal Service) must maintain an effective safety and health program that meets the same standards that apply to private employers. Federal agencies, except the U.S. Postal Service, cannot be fined for violating health and safety standards.

WHAT DOES OSHA COVERAGE MEAN?

➤ A Safe and Healthful Workplace and OSHA Standards

Employers must provide safe working conditions. This is known as the “General Duty” clause in the OSHA law and requires that:

Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious harm to his employees.

In addition to general industry, OSHA develops and enforces health and safety standards for the construction and maritime industries. **States with federally approved programs must adopt all federal OSHA standards.** States can also develop and enforce their own standards that provide greater protection than federal standards. State public employee OSHA programs that are NOT federally approved have various requirements to adopt federal OSHA standards.

➤ **Complaints and Inspections**

Workers can file a complaint with OSHA and request to have their workplaces inspected if they believe there are dangerous conditions present and/or employers are not complying with OSHA requirements.

- Employers must NOT be informed that there will be an inspection before it occurs.
- Workers have the right to file a complaint with OSHA without the employer knowing the name(s) of the worker(s) that contacted OSHA.
- Union representatives have the right to accompany the OSHA inspector during the inspection.

➤ **Enforcement of Safety Laws**

OSHA can issue citations and penalties against employers for failing to comply with job safety laws. Depending on the situation, OSHA can issue more severe penalties for serious, repeat, or willful violations. Some state OSHA laws do not permit fines for state and local governments.

➤ **Access to Health and Safety Information and Employer Records**

Employers must provide training and information about hazards to workers. Workers and union representatives have access to employers' injury and illness data, worker medical and exposure records, information about chemicals, and other hazards in the workplace.

➤ **Protection from Employer Retaliation**

The OSH Act prohibits employers from firing or taking other acts of discrimination against workers who complain to their employer, OSHA or other government agencies about unsafe or unhealthful conditions in the workplace.

STATE OSHA LAWS FOR STATE AND LOCAL GOVERNMENT WORKERS

State	Federally Approved OSHA State Plan	State OSHA Law NOT Federally Approved	OSHA Hazard Communication Standard or Chemical “Right-to-Know” Law
AL			
AK	✓		✓
AZ	✓		✓
AR			✓
CA	✓		✓
CO			
CT ¹	✓		✓
DE			✓
DC		✓	
FL			✓
GA			
HI	✓		✓
ID			
IL	✓		✓
IN	✓		✓
IA	✓		✓
KS		✓	✓
KY	✓		✓
LA			
ME		✓	✓
MD	✓		✓
MA			✓
MI	✓		✓
MN	✓		✓
MS			
MO			✓
MT			✓
NE ³		✓	
NV	✓		✓
NH		✓	✓
NJ ¹	✓		✓
NM	✓		✓
NY ¹	✓		✓
NC	✓		✓
ND			✓
OH		✓	✓
OK		✓	✓
OR	✓		✓
PA			✓
PR ¹	✓		✓
RI			✓
SC	✓		✓
SD			
TN	✓		✓
TX			✓
UT	✓		✓
VT	✓		✓
VA	✓		✓
Virgin Island ¹	✓		✓
WA	✓		✓
WV ⁴		✓	✓
WI		✓	✓
WY	✓		✓

1. Law applies to state and local government workers only. Private sector workers are covered by federal OSHA.
2. Colorado Executive Order: State “will attempt to provide a safe and healthful workplace” for state workers.
3. Workplace Safety Consultation Program is part of Workers’ Compensation Law.
4. Has state OSHA law for public employees but program is not funded.

For more information on OSHA, workers’ rights, OSHA standards, filing complaints, etc., see the AFSCME publication *Safe Jobs Now* at: <http://www.afscme.org/issues/1334.cfm>, or go to the Workers’ Page on OSHA’s Website at: <http://www.osha.gov/as/opa/worker/index.html>

WHAT STEPS SHOULD BE TAKEN BEFORE FILING A COMPLAINT WITH OSHA?

There are steps a local union can take before filing a complaint to involve the membership, build the union, and improve the chances that OSHA will take decisive action against an employer.

- Request and review employer records related to injuries, training, hazard identification and control.
- Talk with workers to educate them about why workers are being hurt and what can be done to prevent injuries and illnesses, and their rights under job safety and other laws.
- Conduct a survey to document injuries and hazards that are not on employer records.
- Get workers to sign petitions demanding that the employer provide safe working conditions that can prevent injuries.
- Request a meeting with the employer to discuss hazards and actions that need to be taken to protect workers.

ARE THERE LAWS IN ADDITION TO STATE OSHA LAWS THAT CAN BE USED TO PROTECT STATE AND LOCAL GOVERNMENT WORKERS?

There are health and safety laws beyond OSHA that apply to public employees. For example, the United States Environmental Protection Agency (EPA) extends OSHA asbestos protections to state and local government workers not covered by OSHA laws, and have special rules applying to asbestos in schools. (See the AFSCME fact sheet, Federal OSHA and EPA Asbestos Laws at <http://www.afscme.org/health>. EPA also extends to public employees OSHA's regulation for hazardous waste operations and emergency response.

There are state and/or local laws that government agencies must follow. These include, but are not limited, to fire and building codes, vehicle and transportation standards, and health department regulations

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For more information about protecting workers from workplace hazards, please contact the AFSCME Research & Collective Bargaining Department, Health and Safety Program at (202) 429-1215. You can also contact our office located at 1625 L Street, NW Washington, DC 20036.