

Oklahoma Department of Labor

Oklahoma Occupational Health and Safety Standards Act

Oklahoma Statutes, Title 40 Section 401 et seq.
2011 Edition



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Commissioner of Labor

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OKLAHOMA STATUTES
TITLE 40. LABOR
OKLAHOMA OCCUPATIONAL HEALTH AND
SAFETY STANDARDS ACT
(2011 Edition)

§ 401. Short title

Sections 401 through 424 of this title shall be known and may be cited as the Oklahoma Occupational Health and Safety Standards Act.

Laws 1970, c. 287, § 1, operative July 1, 1970; Laws 1984, c 147, § 1, operative July 1, 1984.

§ 402. Occupational health and safety - Definitions

As used in the Oklahoma Occupational Health and Safety Standards Act:

1. "Employer" means the state and all its political subdivisions which has in its employ one or more individuals performing services for it in employment; and
2. "Employee" means a person permitted to work by an employer in employment; and
3. "Place of employment" means the plant or premises in or about which an employee is permitted to work; and
4. "Department" means the Oklahoma Department of Labor; and
5. "Commissioner" means the Commissioner of Labor; and
6. "Division" means the Health and Safety Education and Training Division; and

7. "Standard" has the same meaning as, and includes, the words "regulation", "code", and "rule"; and

8. "National consensus standards" means any occupational safety or health standard adopted under a consensus method by a nationally recognized standards-producing organization; and

9. "Employment" includes all services for pay pursuant to a contract of hire except service in agricultural employment.

Laws 1970, c. 287, § 2, operative July 1, 1970; Laws, c. 147, § 2, operative July 1, 1984; Laws 1992, c. 305, § 2, emerg. Eff. May 27, 1992.

§ 403. Employer's duties and responsibilities

A. 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 likely to cause death or serious physical harm to his employees, commensurate with the Occupational Safety and Health Act of 1970.

B. No person shall discharge, discriminate or take adverse personnel action against any employee because such employee has filed any complaint, or instituted or caused to be instituted any proceeding under or related to this act, or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of himself or herself or others of any right affected by this act.

C. Within forty-eight (48) hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident in writing to the Oklahoma City office of the Oklahoma Department of Labor, in a manner prescribed by the Department. The Commissioner of Labor may require such additional reports as he deems necessary, including the official death certificate from the Oklahoma Department of Health.

D. No rule or standard promulgated under this act shall, or shall be deemed to, establish legal standards of conduct or legal duties, the violation of which standards or duties would constitute negligence or gross negligence in any civil proceeding.

E. Every employer having twenty-five (25) or more full- or part-time employees shall:

1. Designate an employee who shall coordinate all safety programs of the employer;

2. Provide safety classes to each type or class of employee no less than quarterly, except that public schools shall only be required to provide safety classes or instruction to their employees during the school year. Provided further, public school employees who are certified personnel and are in compliance with federal OSHA occupational safety and health standards shall be exempt from such safety classes or instruction and shall not be included in the computation of the number of employees set forth in subsection E of this section for determining the requirement of such safety classes or instruction; and

3. Cooperate with the Department of Labor including allowing any announced inspection of the premises for the purpose of determining compliance with this subsection.

The provisions of this subsection shall not apply to any hospital which is subject to the rules of the U.S. Department of Health and Human Services, Health Care Financing Administration (HCFA), as set forth in 42 CFR Parts 405, 412, 416, 417, 440, 441, 456, 482 and 489; Medicare and Medicaid Programs; Conditions of Participation for Hospitals, Final Regulations.

Laws 1970, c. 287, § 3, operative July 1, 1970; Laws 1992, c. 305, § 3, emerg. eff. May 27, 1992; Laws 1993, c. 349, § 19 eff. Sept. 1, 1993; Laws 1994, c 163, § 1, emerg. eff. May 6, 1994.

§ 404. Removal or damage of safeguards - Failure to obey safety orders

No employee shall willfully remove, displace, damage, destroy or carry off any safety device or safeguard furnished or provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person. No employee or agent of employees shall interfere with the use of any method or process adopted for the protection of any employee in such employment or place of employment, or of any other person lawfully within such place of employment, or fail to follow and obey orders necessary to protect the life, health and safety of such employees and any other person lawfully within such place of employment.

Laws 1970, c. 287, § 4, operative July 1, 1970

§ 405. Repealed by Laws 1984, c. 147 § 6, operative July 1, 1984

§ 406. Repealed by Laws 1986, c. 222 § 32, eff. Nov. 1, 1986

§407. Adoption of health and safety standards - Promulgation - Limitation

A. The Commissioner pursuant to the provisions of Sections 301 through 326 of Title 75 [FN1] of the Oklahoma Statutes may prescribe, adopt, promulgate, amend and rescind health and safety standards, which shall be derived from national consensus standards, designed for the prevention of accidents in all places of employment and for the protection of the life, health and safety of employees.

B. Authority to promulgate health and safety standards is limited to that not granted to other state department or other legally constituted state boards for commissions.

Laws 1970, c. 287, § 7, operative July 1, 1970; Laws 1984, c. 147, § 3, operative July 1, 1984.

[FN1] § 301. Renumbered as Title 75, § 250.3 by Laws 1987, c. 207, § 27

§ 326. Repealed by Laws 1989, c. 154 § 2, operative July 1, 1989

§§ 408, 409. Repealed by Laws 1984, c. 147, § 6, operative July 1, 1984

§ 410. Administration and enforcement

A. The Commissioner shall administer and enforce the provisions of the Oklahoma Occupational Health and Safety Standards Act. [FN1]

1. It is not intended that the Oklahoma Occupational Health and Safety Standards Act be an issue or be involved in any labor disputes, or be used or asserted to advantage in collective bargaining by employer or employee, or by their respective representatives.

2. The Commissioner shall cause to be inspected any place of employment to ensure the presence of a functioning safety and health program which meets the requirements of Title 40 of the Oklahoma Statutes and adopted and referenced standards.

B. Subject to the provisions of subsection A of this section, authorized employees of the Department may enter and inspect places of employment, including premises and buildings under construction, demolition or repair, at all reasonable times, in order to investigate such facts, conditions, practices or matters as deemed appropriate, and to determine if any person is violating any provisions of the Oklahoma Occupational Health and Safety standards Act or any standard promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act.

C. Upon receipt by the Department of a signed complaint of violation of any of the provisions of the Oklahoma Occupational Health and Safety Standards Act or of any standard promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act, an authorized employee shall investigate the alleged violation and inform the complainant of the result of the investigation.

D. If upon inspection or investigation, or whenever the Commissioner determines a violation of the Oklahoma Occupational Health and Safety Standards Act or of any standard, rule, or regulation promulgated pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act has occurred, the Commissioner shall give written notice to the alleged violator specifying the cause of the determination. Such notice shall require that the violations be corrected and specify the terms of such correction or that the alleged violator appear before the Commissioner at a time and place specified in the notice and answer the charges. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection G of this section.

E. The Commissioner or his designee shall afford the alleged violator an opportunity for a fair hearing in accordance with the provisions of subsection H of this section. On the basis of the evidence produced at the hearing, the Commissioner shall make findings of fact and conclusions of law and enter an order thereon. The Commissioner shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. The order of the Commissioner shall become final and binding on all parties unless appealed to the district court as provided in Sections 301 through 326 of Title 75 [FN2] of the Oklahoma Statutes within thirty (30) days after notice has been sent to the parties.

F. Whenever the Commissioner finds that an emergency exist requiring immediate action to protect the public health or welfare pursuant to the provisions of the Oklahoma Occupational Health and Safety Standards Act, the Commissioner may without notice or hearing issue an order stating the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such an order is directed shall comply with said order immediately but on application to the Commissioner shall be afforded a hearing within ten (10) days of receipt of said notice. On the basis of such hearing, the Commissioner shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the district court of the county in which the place of employment is located within thirty (30) days. Such appeal when docketed shall have priority over all cases pending on said docket, except criminal cases. If compliance with said emergency order is not immediately taken, the Commissioner or his duly authorized employee may also request the district attorney of Oklahoma County, or the district attorney in any other district where service can be obtained, to file legal proceedings to enjoin the acts or practices contained in the emergency order to enforce immediate compliance with said order.

G. Except as otherwise expressly provided by law, any notice, order, or other instrument issued by or pursuant to authority of the Commissioner may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by registered mail directed to the person affected at his last-known post office address as shown by the files or records of the Commissioner. Proof of service shall be made as in the case of service of a summons or by publication in a civil action or may be made by the affidavit of the person who did the mailing. Such proof of service shall be filed in the office of the Commissioner.

Every certificate or affidavit of service made and filed as in this section provided shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

H. The hearings authorized by this section may be conducted by the Commissioner or the Commissioner may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the Commissioner at any time and place. Such hearings shall be conducted in conformity with and records made thereof as provided by the provisions of Sections 301 through 326 of Title 75 [FN3] of the Oklahoma Statutes.

I. The employer to whom a health and safety order is directed shall notify the Department of his compliance therewith in a manner specified by the Department.

J. If an employer fails to comply with a health and safety order issued pursuant to this section, the Commissioner may grant an additional time for compliance therewith, modify, alter or dismiss the health and safety order or refer the matter to the Board.

Laws 1970, c. 287, § 10, operative July 1, 1970; Laws 1984, c 147, § 4, operative July 1, 1984; Laws 1992, c. 305, § 4 emerg. eff. May 27, 1992.

[FN1] Title 40, § 401 *et seq.*

[FN2] § 301. Renumbered as Title 75, § 250.3 by Laws 1987, c. 207, § 27

§ 326. Repealed by Laws 1989, c. 154 § 2, operative July 1, 1989

[FN3] § 301. Renumbered as Title 75, § 250.3 by Laws 1987, c. 207, § 27

§ 326. Repealed by Laws 1989, c. 154, § 2, operative July 1, 1989

§ 411. Repealed by Laws 1984, c. 147, § 6, operative July 1, 1984

§ 412. Violations - Penalties

A. Any person failing to comply with any standard or interfering with, impeding or obstructing in any manner the administration of standards pursuant to the provisions of the Oklahoma Occupational Health and Safety standards Act, upon conviction, shall be guilty of a misdemeanor.

B. Any person who violates any of the provisions of the Oklahoma Occupational Health and Safety Standards Act, upon conviction, shall be guilty of a misdemeanor and in addition thereto may be enjoined from continuing such violations. Each day upon which such violation occurs shall constitute a separate violation.

C. The Attorney General, on the request of the Commissioner, shall bring an action against any person violating any of the provisions of the Oklahoma Occupational Health and Safety Standards Act or violating any order or determination of the Commissioner promulgated pursuant to the Oklahoma Occupational Health and Safety Standards Act.

Laws 1970, c. 287, § 12, operative July 1, 1970; Laws 1984, c 147, § 5, operative July 1, 1984; Laws 1992, c. 305, § 5 emerg. eff. May 27, 1992.

§ 413. Public Policy

The following is declared to be the public policy of the state:

Occupational accidents produce economic and social loss, impair productivity and retard the advancement of standards of living. Both humane and economic considerations recommend the establishment and implementation of effective injury control measures. A unified continuing, professional effort is required. A dynamic program of health and safety education and training is the best-known solution to the control of occupational accidents.

Laws 1970, c. 287, § 13, operative July 1, 1970.

§ 415. Repealed by laws 1986, c. 222, § 32, eff. Nov 1, 1986

§§ 415.1, 415.2. Repealed by laws 2005, c. 1, § 34, emerg. eff. July 1, 2005

§ 416. Establishment of staff - Duties

The Commissioner shall establish within the Department an experienced and competent staff to discharge the duties and responsibilities provided in section 13 through 17 of this act.

Laws 1970, c. 287, § 16, operative July 1, 1970.

§ 417. Employer's annual report - Summary - Provision of reports to state insurance fund commissioner

(1) To assure the availability of accurate, timely statistical data concerning occupational health and safety in Oklahoma, all employers as defined in Section 402 of this title shall submit reports, on a form and in a manner prescribed by the Commissioner of Labor. Reports shall include only those injuries arising from employment within the State of Oklahoma.

(2) The Department may exempt from this requirement those cases of employers for whose operations adequate records of safety experience are already available or the Department may exempt any employer from this requirement when, in the judgement of the Commissioner, the submission of annual reports by such employer is

not necessary to carry out the purpose of the act and would be an undue burden upon such employer because of size, the nature of its operation or other special circumstances.

(3) The Department shall publish each year a detailed summary of the statistical data received from employers. A copy of such summary shall be available on request to each reporting establishment required to file reports of disabling work injuries and shall be made available to anyone having a legitimate interest in the subject matter of the report.

(4) Upon publication of the annual summary, the Commissioner of Labor shall provide to the CompSource Oklahoma President and Chief Executive Officer, upon request, the reports of each employer subject to the provisions of this section, and any derivation, tables or analysis generated by the Department of Labor in the preparation of such summary.

Laws 1970, c. 287, § 17, operative July 1, 1970; Laws 1985, c 348, § 5, operative July 31, 1985; Laws 1988, c. 317, § 4 eff. Nov. 1, 1988; Laws 1992, c. 305 § 7, emerg. eff. May 27, 1992; Laws 2002, c. 50, § 2, eff. November 1, 2002.