
YOUR RIGHTS ON A

CONSTRUCTION SITE

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YOUR RIGHTS ON A CONSTRUCTION SITE

In 2017, the Missouri Department of Labor reported that there were over 660 injuries in construction related jobs alone. That's an alarming statistic. It also made us wonder-- how many people working on a construction site know their rights? To that end, OSHA ensured that construction workers have rights after an accident, and employers are also responsible for keeping the worker safe. Missouri's work comp law also provides construction workers rights if they get hurt on the job.



OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970:

Working in construction can have more risk than other jobs, which is why the Occupational Safety and Health Administration (OSHA) was created by the Occupational Safety and Health (OSH) Act of 1970. According to its website, OSHA's mission statement is "to assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education and assistance." The agency is also tasked with enforcing a variety of whistleblower statutes and regulations. OSHA's regulations and workplace safety inspections have been shown to reduce the cost and rate of injuries without causing an adverse effect on employment, sales, credit ratings, or business survival.

EMPLOYER RESPONSIBILITIES AS DEFINED BY OSHA

- Provide their workers with a workplace free of serious hazards.
- Try to eliminate or reduce hazards by making feasible changes in working conditions rather than solely relying on
- Provide protective equipment such as masks, gloves, or earplugs (such as switching to safer chemicals, enclosing processes to trap harmful fumes, or using ventilation systems to clean the air, when applicable).
- Inform workers about chemical hazards through training, labels, alarms, color-coded systems, chemical information sheets and other methods.
- Provide safety training to workers in a language and vocabulary they can understand.
- Keep accurate records of work-related injuries and illness.
- Perform tests in the workplace, such as air sampling, required by some OSHA standards.
- Provide workers with personal protective equipment at no cost to them.
- Provide hearing exams or other medical tests when required by OSHA standards.
- Post OSHA citations and annually post injury and illness summary data where workers can see them.
- Notify OSHA within eight hours of a workplace fatality.
- Notify OSHA within 24 hours of all work-related inpatient hospitalizations, all amputations, and all instances when an employee loses an eye.
- Prominently display the official OSHA Job Safety and Health—It's the Law poster that describes rights and responsibilities under the OSH Act.
- Not retaliate or discriminate against workers for using their rights under the law, including their right to report a work-related injury or illness

EMPLOYEE RIGHTS AS DEFINED BY OSHA



THE LAW ALSO PROVIDES EMPLOYEES WITH A SET OF RIGHTS UNDER OSHA AND THE OSH ACT. ACCORDING TO OSHA'S LIST OF EMPLOYEE RIGHTS, EMPLOYEES HAVE THE RIGHT TO:

- Review all appropriate standards, rules, regulations, and requirements that should be available through the employer at the workplace.
- Have access to relevant employee exposure and medical records.
- Request an inspection from OSHA if they feel the workplace is not operating within OSHA standards.
- Have an employee representative (chosen by the union or employees if there is no union) accompany the OSHA compliance officer during the inspection.
- Receive a copy of the tests done to discover hazards in the workplace.
- Have their names withheld from their employer if they sign and file a written complaint.
- Be free of any retaliatory action taken by their employer because of an OSHA complaint.
- Review records of work-related injuries and illnesses.

OSHA IS RESPONSIBLE FOR ENFORCEMENT

OSHA is responsible for the enforcement of its standards, and Compliance Safety and Health Officers conduct inspections and assess fines for regulatory violations.



DE MINIMIS VIOLATIONS:

The OSH Act authorizes OSHA to treat certain violations, which have no direct or immediate relationship to safety and health, as de minimis, requiring no penalty or abatement. OSHA does not issue citations for de minimis violations.



OTHER THAN SERIOUS VIOLATION:

A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A proposed penalty of up to \$7,000 for each violation is discretionary.



SERIOUS VIOLATION:

A violation where a substantial probability that death or serious physical harm could result and where the employer knew, or should have known, of the hazard. A penalty of up to \$7,000 for each violation must be proposed.



WILLFUL VIOLATION:

A violation that the employer intentionally and knowingly commits. The employer either knows that what he or she is doing constitutes a violation, or is aware that a condition creates a hazard and has made no reasonable effort to eliminate it. The Act provides that an employer who willfully violates the Act may be assessed a civil penalty of not more than \$70,000 but not less than \$5,000 for each violation. Proposed penalties for other-than-serious and serious violations may be adjusted downward depending on the employer's good faith (demonstrated efforts to comply with the Act through the implementation of an effective health and safety program), history of violations, and size of business. Proposed penalties for willful violations may be adjusted downward depending on the size of the business. Usually no credit is given for good faith.

If an employer is convicted of a willful violation of a standard that has resulted in the death of an employee, the offense is punishable by a court imposed fine or by imprisonment for up to six months, or both. A fine of up to \$250,000 for an individual, or \$500,000 for an organization [authorized under the Omnibus Crime Control Act of 1984 (1984 OCCA), not the OSH Act], may be imposed for a criminal conviction.



REPEAT VIOLATION:

A violation of any standard, regulation, rule, or order where, upon re-inspection, a substantially similar violation is found. Repeat violations can bring fines of up to \$70,000 for each such violation. To serve as the basis for a repeat citation, the original citation must be final; a citation under contest may not serve as the basis for a subsequent repeat citation.



FAILURE TO ABATE VIOLATION:

Failure to correct a prior violation may bring a civil penalty of up to \$7,000 for each day the violation continues beyond the prescribed abatement date.

However, OSHA is a relatively small agency, employing approximately 2,400 inspectors to inspect more than 8 million workplaces, and according to the AFL-CIO, it would take OSHA 129 years to inspect all workplaces under its jurisdiction. This means that OSHA prioritizes their inspections to first focus on workplaces in particularly hazardous industries, workplaces that have recently seen multiple hospitalizations or a workplace fatality, and workplaces that have employees who have filed complaints or a request for an OSHA inspection.

To that end, In the situation where a workplace does not meet OSHA standards, it's important that employees request an OSHA inspection. By doing so, it will increase the likelihood and expediate the process of an OSHA inspection. Noncompliance with OSHA standards and regulations can lead to injury, illness, or death.



MISSOURI'S WORK COMP LAW:

Missouri's workers compensation law covers the rights and benefits injured workers are entitled to when they get hurt at work in Missouri. Those rights and benefits are separate from and in addition to the rights guaranteed by OSHA.

HOW THE HINES & WILSON LAW FIRM CAN HELP



FREE CONSULTATIONS

Clients can schedule a free and confidential consultation with us to explain their claim – risk free.



MORE THAN 50 YEARS OF EXPERIENCE

Experience is an invaluable asset that we bring to every case.



WE ONLY HANDLE INJURY CLAIMS

The Hines & Wilson Law Firm exclusively handles personal injury and workers' compensation claims in order to better represent our clients.



TRUSTED. RESPECTED. DEDICATED.

The attorneys at The Hines & Wilson Law Firm have worked tirelessly to become recognized and well-respected.

If you've been injured at work and you think your employer may be violating your rights, contact us. You can call us at (573) 443-4500 or toll free at (877) 473-4500, or email us info@hineswilsonlaw.com for a free and confidential consultation about your workers' comp claim.

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