

EMPLOYMENT LAW

Employment at Will

- **At-will employees** – employees who do not have employment contracts.
- **Wrongful discharge** – the discharge of an employee in violation of a statute, an employment contract, or public policy, or tortiously.
 - The employee can recover damages and other remedies.

HOW ARE EMPLOYMENT CONTRACTS MADE?

- Terms of the employment contract
 - Express agreements
 - Implied agreements
 - Terms imposed by law

HOW ARE EMPLOYMENT CONTRACTS TERMINATED?

- By performance
- By termination at will
 - Wrongful discharge
 - Violation of contract terms
 - Government employees
- By material breach
- Unemployment compensation

WHAT ARE AN EMPLOYER'S DUTIES?

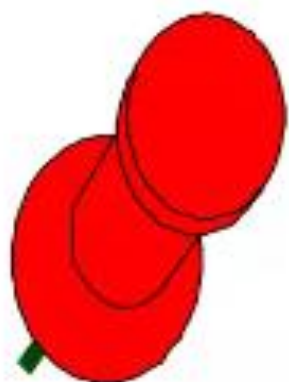
- Duties owed to employees
 - Reasonable treatment
 - Safe working conditions
 - Fair labor standards
 - Payroll deductions
 - Military service
 - Voting

WHAT ARE AN EMPLOYER'S DUTIES?

- Duties owed to minors
 - State laws
 - Federal law
- Duties owed to those injured by employees

WHAT ARE AN EMPLOYEE'S DUTIES?

- Duty to fulfill the employment contract
- Duty of obedience
- Duty of reasonable skill
- Duty of loyalty and honesty
- Duty of reasonable performance



Workers' Compensation Acts

Acts that compensate workers and their families if workers are injured in connection with their jobs.

Workers' Compensation Acts

- Workers' compensation benefits
 - vary by state.
 - are paid according to preset limits established by statute or regulation.

Workers' Compensation Insurance

- States usually require employers to:
 - To pay for workers' compensation insurance, or
 - To self-insure by making payments into a contingency fund.

Employment Related Injury

- To recover under workers' compensation, the worker's injuries must have been employment-related.
- Stress may be a compensable work-related injury.

Exclusive Remedy

- Workers' compensation is an exclusive remedy.
- Workers cannot sue their employers in court for damages.
 - Exception occurs when an employer intentionally injures an employee.

Specific Duty Standard

- Addresses a safety problem of a specific duty nature.
 - e.g., requirement for a safety guard on a particular type of equipment

General Duty Standard

- Duty that an employer has to provide a work environment *“free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.”*

Child Labor

- The FLSA forbids the use of oppressive child labor.
- It is unlawful to ship goods produced by businesses that use oppressive child labor.
- The Department of Labor defines the standards for lawful child labor.

Minimum Wage and Overtime Pay

- Managerial, administrative, and professional employees are exempt from the FLSA's wage and hour provisions.
- Employers are required to pay covered (non-exempt) workers at least the minimum wage for their regular work hours.
- Overtime pay is also mandated.

Minimum Wage

- Set by Congress and can be changed.
- Employers are permitted to pay less than minimum wage to students and apprentices.
- An employer may reduce minimum wages by an amount equal to the reasonable cost of food and lodging provided to employees.

Overtime Pay

- An employer cannot require nonexempt employees to work more than 40 hours per week unless they are paid *one-and-a half times their regular pay for each hour worked in excess of 40 hours*.
- Each week is treated separately.

Family and Medical Leave Act

- Applies to employers with 50 or more workers, federal, state, and local government workers
- Employee must have worked for employer for at least one year
- Employee must have performed 1250 hours of work in previous twelve-month period

- Provides up to 12 weeks of unpaid leave for:
 - Birth of child
 - Placement of child for adoption or foster care
 - Serious health condition
 - Care for spouse, child, or parent with serious health condition
- Must use all available sick time and vacation time before it is applied

Family and Medical Leave Act (continued)

- Employee must be restored to either same or equivalent position
- Must be given equivalent pay and benefits
- No accrual of seniority