

LABOR CODE

TITLE 2. PROTECTION OF LABORERS

SUBTITLE E. REGULATION OF CERTAIN OCCUPATIONS

CHAPTER 92. TEMPORARY COMMON WORKER EMPLOYERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 92.001. PURPOSE. (a) The legislature finds that this chapter is necessary to:

(1) provide for the health, safety, and welfare of common workers throughout this state; and

(2) establish uniform standards of conduct and practice for temporary common worker employers in this state.

(b) This chapter shall be implemented in accordance with these purposes.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.001, eff. September 1, 2017.

Sec. 92.002. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.014(1), eff. September 1, 2017.

(2) Repealed by Acts 2003, 78th Leg., ch. 816, Sec. 16.004(1).

(3) "Common worker" means an individual who performs labor involving physical tasks that do not require:

(A) a particular skill;

(B) training in a particular occupation, craft, or trade; or

(C) practical knowledge of the principles or processes of an art, science, craft, or trade.

(4) Repealed by Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.014(1), eff. September 1, 2017.

(4-a) Repealed by Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.014(1), eff. September 1, 2017.

(5) "Governmental subdivision" means a municipality, county, special district, zone, authority, or other entity that is chartered, created, or authorized by this state.

(6) "Labor hall" means a central location maintained by a temporary common worker employer where common workers assemble and are dispatched to work for a user of common workers.

(6-a) "Municipality" has the meaning assigned by Section 1.005, Local Government Code.

(7) "Temporary common worker employer" means a person who provides common workers to a user of common workers. The term includes a temporary common worker agent or temporary common worker agency.

(8) "User of common workers" means a person who uses the services of a common worker provided by a temporary common worker employer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 816, Sec. 16.001, 16.004(1), eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.002, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.014(1), eff. September 1, 2017.

SUBCHAPTER B. AUTHORITY TO OPERATE

Sec. 92.0115. AUTHORITY TO OPERATE. Subject to Section 92.013 and unless prohibited by a governmental subdivision, a person may operate as a temporary common worker employer in this state if the person meets the requirements of this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.004, eff. September 1, 2017.

Sec. 92.012. EXEMPTIONS. This chapter does not apply to:

- (1) a temporary skilled labor agency;
- (2) a professional employer organization;
- (3) an employment counselor;

(4) a talent agency;

(5) a labor union hiring hall;

(6) a temporary common worker employer that does not operate a labor hall;

(7) a labor bureau or employment office operated by a person for the sole purpose of employing an individual for the person's own use; or

(8) an employment service or labor training program provided by a governmental entity.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. [1286](#)), Sec. 18, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. [2065](#)), Sec. 7.005, eff. September 1, 2017.

Sec. 92.013. EFFECT OF OTHER REGULATION. (a) Repealed by Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. [2065](#)), Sec. 7.014(5), eff. September 1, 2017.

(b) A municipality with a population greater than one million may establish municipal requirements that impose stricter standards of conduct and practice than those imposed under Subchapter C.

(c) This chapter does not restrict the zoning authority of a municipality.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 59, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. [2065](#)), Sec. 7.006, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. [2065](#)), Sec. 7.014(5), eff. September 1, 2017.

SUBCHAPTER C. STANDARDS OF CONDUCT AND PRACTICE

Sec. 92.021. POWERS AND DUTIES OF EMPLOYER. (a) Each temporary common worker employer is the employer of the common workers provided by that temporary common worker employer.

(b) A temporary common worker employer may hire, reassign, control, direct, and discharge the employees of the temporary common worker employer.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.008, eff. September 1, 2017.

Sec. 92.022. REQUIRED RECORDS; CONFIDENTIALITY. (a) Each temporary common worker employer shall maintain and make available to a governmental subdivision records that show for each common worker provided by the temporary common worker employer to a user of common workers:

- (1) the name and address of the worker;
- (2) the hours worked;
- (3) the places at which the work was performed;
- (4) the wages paid to the worker; and
- (5) any deductions made from those wages.

(b) The temporary common worker employer shall maintain the records at least until the second anniversary of the date on which the worker was last employed by the temporary common worker employer.

(c) Information received by the governmental subdivision under this section is privileged and confidential and is for the exclusive use of the governmental subdivision. The information may not be disclosed to any other person except on the entry of a court order requiring disclosure or on the written consent of a person under investigation who is the subject of the records.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 816, Sec. 16.003, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.009, eff. September 1, 2017.

Sec. 92.023. POSTING OF CERTAIN INFORMATION. (a) Repealed by Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.014(8), eff. September 1, 2017.

(b) Each temporary common worker employer shall post in a conspicuous place in the premises on which the temporary common worker employer operates a notice of any charge permitted under this chapter that the temporary common worker employer may assess against a common worker for equipment, tools, transportation, or other work-related services.

(c) For purposes of this section, "conspicuous place" means a location that is in open view to the general public.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.010, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.014(8), eff. September 1, 2017.

Sec. 92.024. LABOR HALL REQUIREMENTS. A temporary common worker employer that operates a labor hall as part of a premises on which the temporary common worker employer operates shall provide adequate facilities for a worker waiting for a job assignment. The facilities must include:

- (1) restroom facilities for both men and women;
- (2) drinking water;
- (3) sufficient seating; and
- (4) access to vending refreshments and food.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.011, eff. September 1, 2017.

Sec. 92.025. CERTAIN CHARGES AND DEDUCTIONS PROHIBITED.

(a) A temporary common worker employer may not charge a common worker for:

(1) safety equipment, clothing, or accessories required by the nature of the work, either by law, custom, or the requirements of the user of common workers;

(2) uniforms, special clothing, or other items required as a condition of employment by the user of common workers;

(3) the cashing of a check or voucher; or

(4) the receipt by the worker of earned wages.

(b) A temporary common worker employer may not deduct or withhold any amount from the earned wages of a common worker except:

(1) a deduction required by federal or state law; or

(2) a reimbursement for a cash advance made to the worker during the same pay period.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.20(a), eff. Sept. 1, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.012, eff. September 1, 2017.

SUBCHAPTER D. ENFORCEMENT

Sec. 92.031. ENFORCEMENT. A governmental subdivision may enforce this chapter within the boundaries of the governmental subdivision.

Added by Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. 2065), Sec. 7.013, eff. September 1, 2017.