

**TEMPORARY COMMON WORKER EMPLOYERS**  
**Title 2, Labor Code**  
**Subtitle E. Regulation of Certain Occupations**  
**Chapter 92**  
**Administered by the Texas Department of Licensing and Regulation**  
*(Effective September 1, 2013)*

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## 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 workers throughout this state; and
  - (2) establish uniform standards of conduct and practice for certain employers in this state.
- (b) This chapter shall be implemented in accordance with these purposes.

### **Sec. 92.002. Definitions.**

In this chapter:

- (1) "Commission" means the Texas Commission of Licensing and Regulation.
- (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) "Department" means the Texas Department of Licensing and Regulation.
- (4-a) "Executive Director" means the executive director of the department.
- (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 license holder where common workers assemble and are dispatched to work for a user of common workers.
- (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.

### **Sec. 92.003. Agency Powers and Duties.**

The department and commission shall exercise the regulatory, administrative, and licensing authority granted under this chapter as provided by Chapter 51, Occupations Code.

### **Sec. 92.004. Applicability of Other Law.**

Section 51.405, Occupations Code, does not apply to this chapter.

## **SUBCHAPTER B. LICENSE REQUIREMENTS**

### **Sec. 92.011. License Required.**

A person may not operate as a temporary common worker employer in this state unless the person holds a license issued under this chapter for each location at which the person operates.

### **Sec. 92.012. Exemptions From Licensing Requirement.**

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.

### **Sec. 92.013. Effect of Other Regulation.**

- (a) Except as provided by Subsection (b), a license issued under this chapter supersedes a license required or issued by a municipality or other governmental subdivision of this state, and a license holder may not be required to hold a license issued by a municipality or other governmental subdivision of this state to operate as a temporary common worker employer in the municipality or governmental subdivision.
- (b) A municipality with a population greater than one million may establish municipal licensing requirements that impose stricter standards than those imposed under Subchapter C.
- (c) This chapter does not restrict the zoning authority of a municipality.

### **Sec. 92.014. License Application and Issuance**

- (a) The department shall issue a temporary common worker employer license to a person who meets the application requirements established by the executive director and pays the application and registration fees set by the commission.
- (b) A license issued under this chapter is valid throughout this state and is not assignable or transferable.

### **Sec. 92.015. License Renewal.**

- (a) A license issued under this chapter is valid for one year from the date of issuance and may be renewed on payment of the required renewal fee.

## **SUBCHAPTER C. POWERS AND DUTIES OF LICENSE HOLDER**

### **Sec. 92.021. License Holder as Employer.**

- (a) Each license holder is the employer of the common workers provided by that license holder.
- (b) A license holder may hire, reassign, control, direct, and discharge the employees of the license holder.

### **Sec. 92.022. Required Records; Confidentiality.**

- (a) Each license holder shall maintain and make available to a representative of the department records that show for each common worker provided by the license holder 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 license holder shall maintain the records at least until the second anniversary of the date on which the worker was last employed by the license holder.
- (c) Information received by the commission or department under this section is privileged and confidential and is for the exclusive use of the commission or department. 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.

### **Sec. 92.023. Posting of Certain Information.**

- (a) Each license holder shall post the license for a place of business at which the license holder operates as a temporary common worker employer in a conspicuous place on the licensed premises for inspection.
- (b) Each license holder shall also post in a conspicuous place in the licensed premises a notice of any charge permitted under this chapter that the license holder 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.

### **Sec. 92.024. Labor Hall Requirements.**

A license holder that operates a labor hall as part of a licensed premises 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.

**Sec. 92.025. Certain Charges and Deductions Prohibited.**

- (a) A license holder 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 license holder 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.

*NOTE: Per SB 972, 83rd Leg, (2013), Subchapter D, Criminal Penalty was repealed effective May 18, 2013, but will remain in effect for offenses committed before May 18, 2013.*

*AS AMENDED BY ACTS 2013, 83<sup>rd</sup> LEG., SB 972, SECTION 6 READS:*

*The repeal of an offense by this Act does not apply to an offense committed before the effective date of the repeal. An offense committed before the effective date of the repeal is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of the repeal if any element of the offense occurred before that date.*