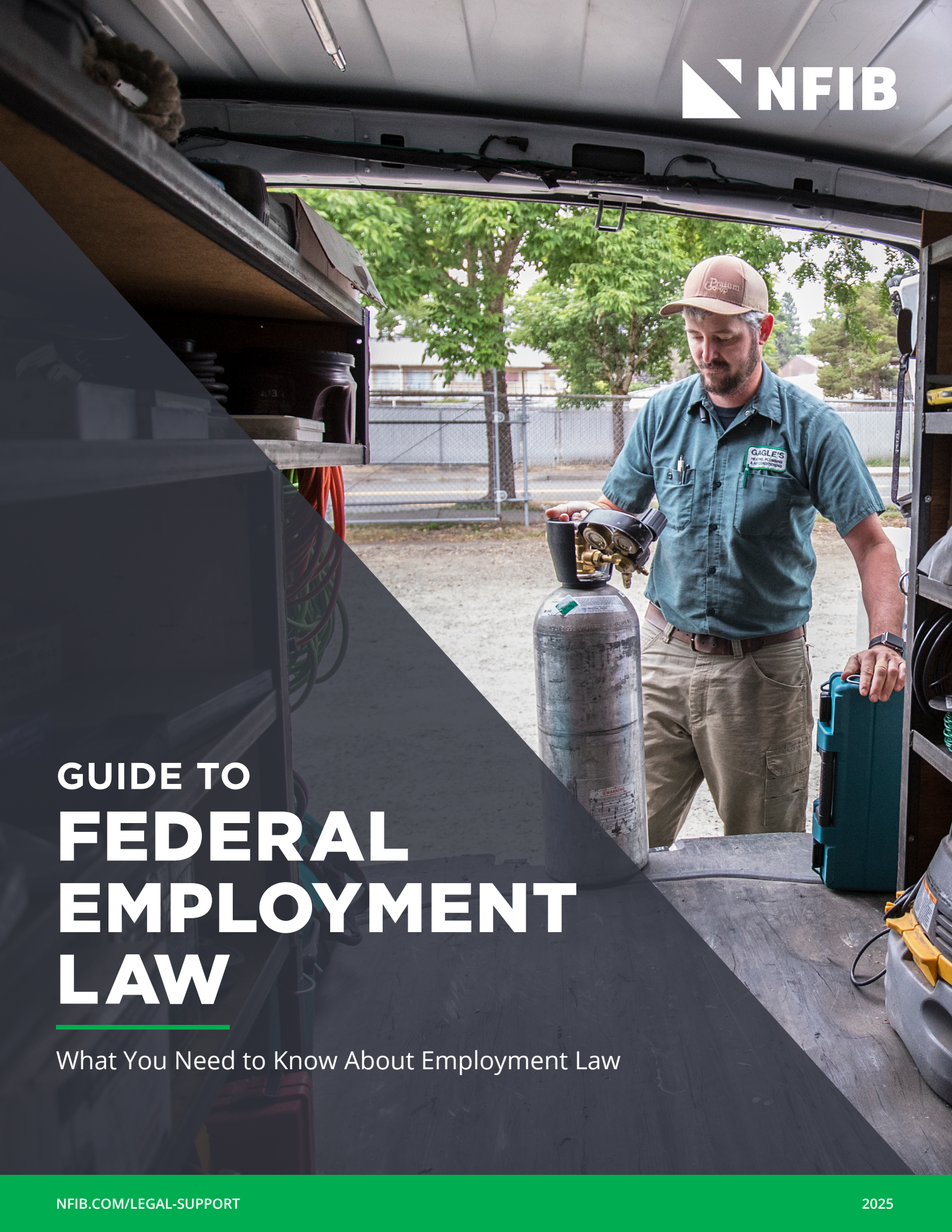




GUIDE TO **FEDERAL EMPLOYMENT LAW**

What You Need to Know About Employment Law

ABOUT THE NFIB GUIDE TO FEDERAL EMPLOYMENT LAW

The NFIB Guide to Federal Employment Law supplies you with an overview of the various significant federal laws that apply to your business in an easy-to-review format. This Guide is not an exhaustive list of all legal requirements, and each state may impose additional obligations. *This Guide is a resource for small business owners but should not be relied on as legal advice. If you think you need more information on complying with one of the laws discussed here, please contact an attorney in your state.*

ABOUT NFIB

The National Federation of Independent Business (NFIB) is the nation's leading small business advocacy association. NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. NFIB represents, in Washington, D.C., and all 50 state capitals, the interests of its members.

ABOUT THE NFIB SMALL BUSINESS LEGAL CENTER

The NFIB Legal Center is the voice for small business in the nation's courts and a legal resource for small business owners nationwide. The Legal Center is a nonprofit public interest law firm that litigates for and educates small businesses. Founded in 2000, the Legal Center has already been front-and-center in some of the most consequential cases of the past two decades, including a challenge to the *Affordable Care Act* and being the lead plaintiff in the lawsuit which overturned the COVID-19 Employer Vaccine Mandate. The Legal Center's education takes many forms, including responding to small business inquiries, holding monthly webinars, and providing legal guides.

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Fair Labor Standards Act (FLSA)

OVERVIEW

The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor requirements for all employees. The U.S. Department of Labor (DOL) administers the FLSA. While no state or local law can provide less than what the FLSA requires, state and local laws may, and sometimes do, provide greater requirements than the minimum standards established in the FLSA. Thus, employers should consult state and local laws as well.

APPLICATION

The FLSA applies to virtually all employers. There is no small business exemption.

MINIMUM WAGE

The federal minimum wage is \$7.25/hour. You may be required to pay a different rate if:

- Your state or local government imposes a higher minimum wage. The higher wage is the one that employers are legally required to pay
- Under the 1996 Amendments to the FLSA, employers can pay employees under 20 years old the “youth minimum wage” of no less than \$4.25/hour for the first 90 consecutive calendar days of employment

OVERTIME PAY

Overtime pay is at least 1.5 times an employee’s regular rate of pay and applies to all hours worked over 40 in a single workweek.

The FLSA includes many exceptions to the overtime and minimum wage requirements, with the most popular including:

- Executive, Administrative, and Professional Employees (“EAP” or “white collar” exemption)
- Outside Sales Employees
- Seasonal Amusement or Recreational Establishments
- Movie Theater Employees
- Casual Babysitters and Certain Farm Workers

CHILD LABOR

No children under the age of 18 can be employed in any occupation deemed hazardous by DOL. Sixteen and 17 year olds can work unlimited hours in any non-hazardous occupation. Fourteen and 15 year olds can be employed in non-hazardous occupations with strict restrictions on the number of hours they can work depending on whether



the day is a school day or school is in session that week. Different rules apply for agricultural work.

RECORDKEEPING REQUIREMENTS

For employees subject to the minimum wage and overtime provisions, an employer must keep detailed payroll records for at least three years. Wage computation records must be kept for at least two years.

NOTICE

Employers must post the [Employee Rights Under the Fair Labor Standards Act](#) poster in the workplace where employees can readily see it.

ADDITIONAL INFORMATION

To locate your Wage and Hour District Office visit: www.dol.gov/agencies/whd/contact/local-offices.

To view your state’s minimum wage requirements, visit: www.dol.gov/agencies/whd/minimum-wage/state.

For a more in-depth analysis of the FLSA, download: [NFIB’s Guide to Wage & Hours Laws](#).

Equal Pay Act

OVERVIEW

The Equal Pay Act prohibits wage and benefit discrimination between men and women in substantially equal jobs within the same establishment.

APPLICATION

Applies to virtually all employers. There is no small business exemption.

PAY RESTRICTIONS

The Act prohibits a difference in pay and benefits based on sex. Differentials in pay and benefits are permissible so long as the employer can show that the difference in pay or benefit is due to a legitimate reason, such as:

- A seniority or merit system
- A quantity or quality of production system
- A difference in education, training, or experience

RECORDKEEPING REQUIREMENTS

Employers must retain payroll records for at least three years. Any record relevant to the difference in wages or benefits between men and women in substantially equal jobs within the same establishment must be kept for at least two years. Such records include documents related to the payment of wages, wage rates, job evaluations, job descriptions, merit systems, seniority systems, or collective bargaining agreements.

NOTICE

Employers must post the [Know Your Rights: Workplace Discrimination is Illegal](#) poster in a place where employees can readily see it.

ADDITIONAL INFORMATION

For more information on the Equal Pay Act, contact the Equal Employment Opportunity Commission (EEOC) at (800) 669-4000 or visit www.eeoc.gov/field-office to locate the closest EEOC office.



PUMP for Nursing Mothers Act (PUMP)

OVERVIEW

The PUMP Act is a 2023 amendment to the FLSA. It expands existing protections for nursing mothers to pump while at work and requires employers to provide a private space for mothers to do so.

APPLICATION

Applies to all employers covered by the FLSA.

REQUIREMENTS

The PUMP Act gives employees the right to take reasonable break time while at work to pump breast milk for their nursing child.

The protection lasts for one year after each child's birth, and an employer must provide the paid break time each time the employee has a need to pump.

Employers must also provide a private space for nursing mothers to pump breast milk. This space must be:

1. Shielded from view
2. Free from intrusion by coworkers and the public
3. A functional space for pumping milk
4. Available when an employee needs to pump
5. Is not a bathroom

A space is shielded from view and free from intrusion when it is not subject to observation or cameras, and the space contains a locking door or the ability to use signs designating it is off-limits to others.

UNDUE HARDSHIP EXEMPTION

Employers with less than 50 employees may be exempt from the break and space requirements if providing these accommodations would impose an undue hardship, meaning a significant difficulty or expense for the business.

ADDITIONAL INFORMATION

For more information on the PUMP Act, contact the Department of Labor at (866) 487-9243 or visit www.dol.gov/agencies/whd/pump-at-work/faqs.





National Labor Relations Act (NLRA)

OVERVIEW

The NLRA gives private sector workers the right to advocate for different working conditions. The NLRA established the National Labor Relations Board (NLRB), which administers the Act.

APPLICATION

The NLRA applies to most private sector employers but does not apply to employers who employ only agricultural workers. The law does not apply to independent contractors.

EMPLOYEE RIGHTS

Section 7 of the NLRA gives employees the right to form or attempt to form a union in the workplace, join a union, assist a union in organizing fellow employees, refuse to do any of these things, be fairly represented by a union, and “engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.” These activities include:

- Talking with other employees about job wages and benefits
- Participating in an organized effort to refuse to work in unsafe conditions
- Multiple employees talking with their employer about improving pay
- Multiple employees discussing work-related issues such as safety concerns with each other, their employer, the government, or the media
- A single employee, acting on behalf of other co-workers, speaking to an employer about improving workplace conditions

EMPLOYER OBLIGATIONS

Section 8 of the NLRA makes it an unfair labor practice for employers to:

1. Threaten employees with job or benefit loss if they join or vote for a union or engage in protected concerted activities
2. Threaten business closure if employees opt for union representation
3. Engage in activities that interfere with, restrain, or coerce employees in the exercise of their rights under the NLRA, such as questioning employees about union sympathies
4. Promising benefits to employees to discourage union support
5. Take any adverse employment action (transfer, fire, assign more difficult work, strip of benefits) against employees because they engaged in union or concerted activity
6. Take any adverse employment action against employees because they file an unfair labor practice charge with the NLRB or participate in an NLRB investigation

NOTICE

Federal contractors and subcontractors must post the [Employee Rights under the National Labor Relations Act](#) poster in a place where employees can readily see it. Other private sector employers may post this notice, but are not legally required to do so.

For more information on the NLRA, contact the NLRB at (844) 762-6572. Employers can also contact their nearest [NLRB Regional Office](#).



Title VII of the Civil Rights Act of 1964 (Title VII)

OVERVIEW

Title VII is an expansive law that prohibits employment discrimination on the basis of race, color, religion, sex, or national origin in hiring, employment (including all terms, conditions, and benefits), and termination.

APPLICATION

Title VII applies to businesses with 15 or more employees. State and local anti-discrimination laws may have a lower employee threshold that covers virtually all businesses.

EXAMPLES OF DISCRIMINATION

The following are examples of discrimination that violate Title VII:

- Harassing an employee because of their race, color, religion, sex, or national origin
- Refusing to make reasonable adjustments to workplace policies or practices so that employees can observe sincerely held religious beliefs
- Hiring, not hiring, or firing someone based on stereotypes or assumptions about a person's abilities due to their race, color, religion, sex, or national origin
- Retaliating against an employee who complains about Title VII discrimination or files a charge of discrimination with the EEOC

REMEDIES AVAILABLE

A violation of Title VII is a serious offense. If found guilty, an employer may be forced to reinstate the employee,

provide back pay, pay damages for future loss of earnings, pay for mental anguish and emotional pain or suffering caused by the discrimination, and pay for the employee's attorney fees. In especially egregious situations, courts also impose punitive damages on employers.

NOTICE

Employers must post the [Know Your Rights: Workplace Discrimination is Illegal](#) poster in a place where employees can readily see it. This poster satisfies an employer's notice obligations under Title VII, the Pregnancy Discrimination Act, the Age Discrimination in Employment Act, the Genetic Information Nondiscrimination Act, and the Americans with Disabilities Act.

ADDITIONAL INFORMATION

For more information on Title VII or the anti-discrimination laws that follow in this guide, contact the EEOC at (800) 669-4000 or visit www.eeoc.gov/field-office to locate the closest EEOC office.

Sexual Harassment

OVERVIEW

Title VII prohibits discrimination “based on . . . sex,” which includes sexual harassment in the workplace.

APPLICATION

Employers with 15 or more employees. State and local laws may have lower thresholds.

EXAMPLES OF SEXUAL HARASSMENT

The law generally does not prohibit simple teasing or isolated offhand comments. Conduct or comments become sexual harassment when it is so frequent or severe as to create a hostile work environment. Examples include:

- Unwelcome sexual advances or requests for sexual favors
- Verbal or physical conduct of a sexual nature
- Suggestive or offensive comments about an individual, or a person’s sex in general, whether sexual in nature or not

TAKE NOTE

- Both men and women can be the victim or harasser
- The victim and harasser can be of the same sex
- The harasser can be the victim’s supervisor, an agent of the employer, a co-worker of the victim, or even a customer, client, or non-employee. The employer must ensure that ALL people in the workplace are acting appropriately



Pregnancy Discrimination Act (PDA)

OVERVIEW

The PDA is an amendment to Title VII that prohibits discrimination “on the basis of pregnancy, childbirth, or related medical conditions.”

APPLICATION

Employers with 15 or more employees. State and local laws may have lower thresholds.

EXAMPLES OF DISCRIMINATION

An employer violates the PDA of Title VII if they:

- Refuse to hire a woman because the woman is pregnant, or refuse to hire a woman based on assumptions about pregnant women
- Fire or force a woman to leave because she is pregnant
- Take away credits or benefits based on maternity leave
- Take adverse action against an employee who has an abortion

TAKE NOTE

For childbirth or pregnancy, multiple federal laws offer employee protection. These include Title VII and the PDA, the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), and the Pregnant Workers Fairness Act (PWFA). Employers should be familiar with all and ensure they are complying with the obligations of each law.

Age Discrimination Employment Act (ADEA)

OVERVIEW

The ADEA prohibits discrimination or harassment against individuals 40 years of age or older.

APPLICATION

Employers with 20 or more employees. State and local laws may have lower thresholds.

PROHIBITED ACTS

Discrimination:

- Employers cannot discriminate against any person due to their age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training
- Age preferences or specifications in job advertisements are prohibited

Harassment:

- The law generally does not prohibit simple teasing or

isolated offhand comments. Conduct or comments become age harassment when it is so frequent or severe as to create a hostile work environment.

TAKE NOTE

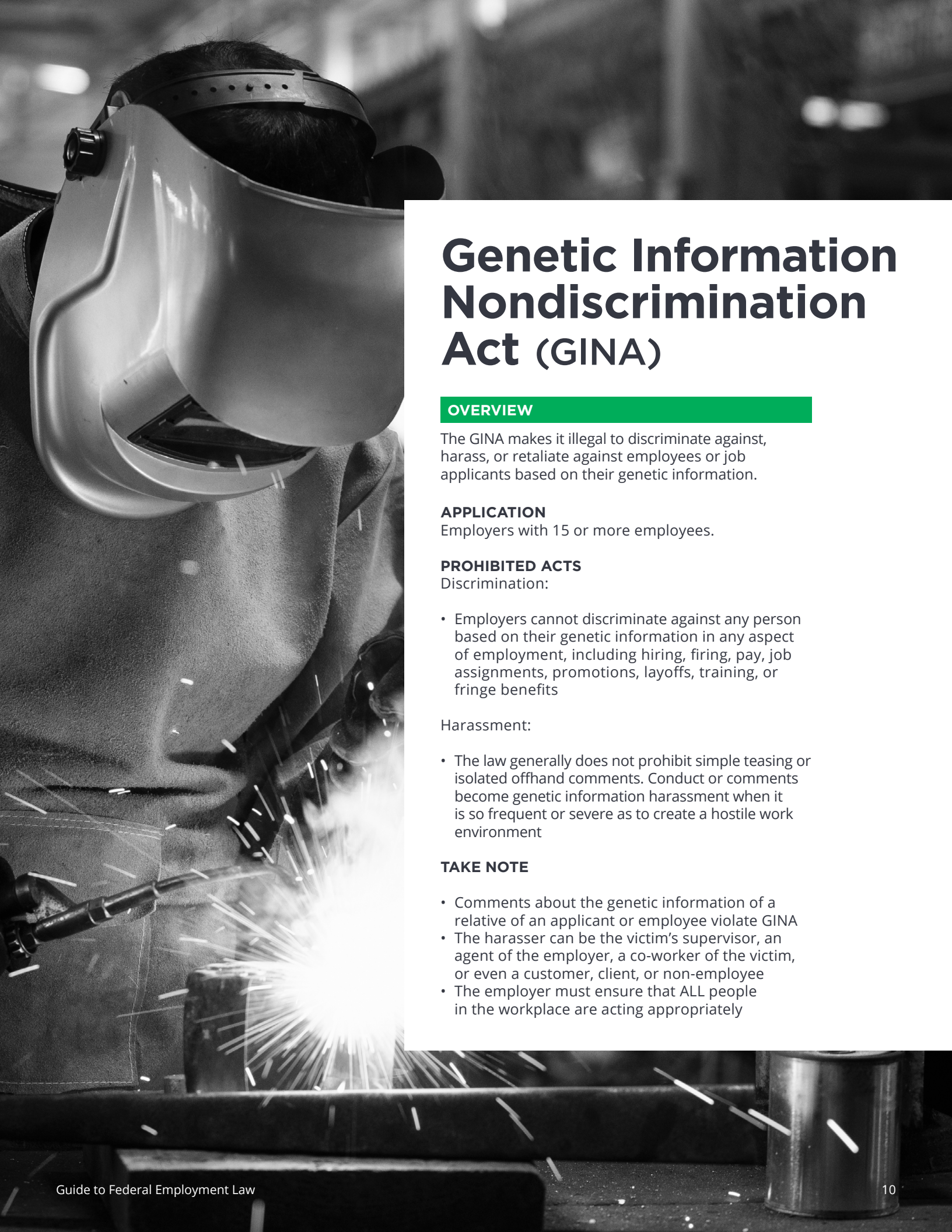
- Age discrimination or harassment can occur when both parties are over 40
- The harasser can be the victim's supervisor, an agent of the employer, a co-worker of the victim, or even a customer, client, or non-employee. The employer must ensure that ALL people in the workplace are acting appropriately

RECORDKEEPING REQUIREMENTS

Employees must retain:

- All payroll records for three years
- Any employee benefit plan and any written seniority or merit system records for the full period the plan is in effect and for at least one year after its termination





Genetic Information Nondiscrimination Act (GINA)

OVERVIEW

The GINA makes it illegal to discriminate against, harass, or retaliate against employees or job applicants based on their genetic information.

APPLICATION

Employers with 15 or more employees.

PROHIBITED ACTS

Discrimination:

- Employers cannot discriminate against any person based on their genetic information in any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoffs, training, or fringe benefits

Harassment:

- The law generally does not prohibit simple teasing or isolated offhand comments. Conduct or comments become genetic information harassment when it is so frequent or severe as to create a hostile work environment

TAKE NOTE

- Comments about the genetic information of a relative of an applicant or employee violate GINA
- The harasser can be the victim's supervisor, an agent of the employer, a co-worker of the victim, or even a customer, client, or non-employee
- The employer must ensure that ALL people in the workplace are acting appropriately

Americans with Disabilities Act (ADA)

OVERVIEW

The ADA prohibits employers from discriminating against a qualified individual with disabilities.

An individual with a disability is someone who:

1. Has a physical or mental impairment that substantially limits one or more major life activities
2. Has a history of such impairment
3. Is regarded by others as having such an impairment

“Substantially limits” is a broad standard. An example of an impairment that is not substantially limiting is a mild allergy to pollen.



“Major life activities” are external and internal functions that contribute to a person’s everyday function. Examples include sleeping, walking, breathing, thinking, concentrating, reading, communicating, or the operation of major bodily functions.

The ADA covers a wide range of disabilities, including visible and non-visible conditions. If in doubt, employers should err on the side of caution and treat an employee’s condition as a qualifying disability until they can consult with an attorney.

APPLICATION

Title I of the ADA applies to employers with 15 or more employees. State and local laws may have lower thresholds.

REQUIREMENTS

Employers must make reasonable accommodations for disabled employees who are otherwise qualified for the job.

A person is otherwise qualified for a job if they:

1. Meet the educational, experience, or skill necessities of the job; and
2. Can perform the essential functions of the job (with or without a reasonable accommodation).

Note: The government gives significance to what employers say are the essential functions of a job. Employers should identify the essential job functions in any job description or posting.

The ADA requires reasonable accommodations in three aspects of employment:

- Ensuring equal opportunity in the application process;
- Enabling a qualified individual with a disability to perform the essential functions of the job; and
- Making it possible for an employee with a disability to enjoy equal benefits of employment.

Note: An employer may be excused from making a reasonable accommodation if doing so would impose an “undue hardship,” meaning a significant difficulty or expense on the business. This is a specific and extremely fact-intensive inquiry. Employers **SHOULD NOT** assume that any accommodation imposing an added expense or difficulty will qualify as an undue hardship.

ADDITIONAL INFORMATION

For more information on the ADA, call the Department of Justice’s ADA Information Line at (800) 514-0301 or visit www.ada.gov.

Pregnant Workers Fairness Act (PWFA)

OVERVIEW

Modeled after the ADA, the PWFA requires employers to provide reasonable accommodations to employees with limitations related to pregnancy, childbirth, and other pregnancy-associated medical conditions. The law also makes it illegal to discriminate or retaliate against a worker based on their need for a reasonable accommodation.

APPLICATION

The PWFA applies to employers with 15 or more employees. State and local laws may have lower thresholds.

REQUIREMENTS

Employers must provide a reasonable accommodation to a qualified employee or applicant with a known limitation due to pregnancy, childbirth, or related medical conditions.

“Known limitation” is a limitation that has been communicated to the employer and is a physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions.

An employee or applicant is qualified if:

1. They can perform the essential functions of the job (with or without a reasonable accommodation); or
2. An inability to perform the essential functions of the job is temporary, the employee or applicant can perform the essential functions in the near future, or the inability to perform the essential functions can be reasonably accommodated

Examples of reasonable accommodations under the PWFA include:

- Additional break time to rest, eat, or use the restroom
- Allowance to drink water
- Chairs or stools to sit on while working
- Modified work schedules
- Telework or temporary reassignment
- Leave for healthcare appointments or to recover from certain conditions

Note: An employer may be excused from making a reasonable accommodation if doing so would impose an “undue hardship,” meaning a significant difficulty or



expense on the business. This is a specific and extremely fact-intensive inquiry. Employers **SHOULD NOT** assume that any accommodation imposing an added expense or difficulty will qualify as an undue hardship.

PROHIBITION

The PWFA prohibits an employer from doing any of the following:

- Failing to make a reasonable accommodation that does not cause an undue hardship
- Require employees to accept an accommodation not arrived at through an interactive process
- Deny job opportunities or benefits based on the need for a reasonable accommodation
- Require employees to take leave if another reasonable accommodation would allow the employee to continue working
- Punish or retaliate against employees for requesting or using a reasonable accommodation or reporting discrimination under the PWFA

ADDITIONAL INFORMATION

For more information on the PWFA, contact the EEOC at (800) 669-4000 or visit www.eeoc.gov/field-office to locate the closest EEOC office.

Immigration Reform & Control Act (IRCA)

OVERVIEW

IRCA has two components:

1. Prohibits employers from hiring any person not legally authorized to work in the United States by requiring employers to verify employment eligibility of new employees
2. Makes it unlawful for employers to discriminate based on national origin and citizenship status

APPLICATION

The IRCA verification of work eligibility requirement applies to all employers. The anti-discrimination provision regarding national origin applies to employers having between four and 14 employees (15 employees begins the threshold for Title VII). The anti-discrimination provision regarding citizenship status applies to employers with four or more employees.

REQUIREMENTS

Employers must verify a prospective employee's legal authorization to work in the U.S. This must be done by completing the [Employment Eligibility Verification Form \(I-9\)](#) when a new employee begins work.

Employers must keep an employee's I-9 for three years from the hire date, or one year from the separation date, whichever is later. In other words, an employer must have an I-9 on file for all current employees.

ADDITIONAL INFORMATION

For more information on IRCA, contact the U.S. Citizenship and Immigration Services (USCIS) at (800) 375-5283 or visit www.uscis.gov. Instructions for Form I-9 can be found [here](#).

INTERVIEWING DON'TS

This section has reviewed federal laws that prevent discrimination based on characteristics like age, sex, pregnancy, disability status, religion, national origin, race, color, genetics, etc. To avoid claims of discrimination in the hiring process, it is important for employers to focus interview questions on the skills and experiences of the applicant, and responsibilities of the position. Here is a list of questions you **SHOULD NOT** ask applicants:

1. **Age:** How old are you? When did you graduate? When were you born?
2. **Marital/Family Status:** What is your marital status? What is your sexual orientation? Do you have a boyfriend or girlfriend? Do you plan to have a family? How many kids do you have or plan to have? Do you have childcare arrangements? Have you had any kids within the past year?
3. **Organizations:** What social clubs and organizations do you belong to or associate with?
4. **Personal:** How tall are you? How much do you weigh? Are you biracial? What medicine do you take?
5. **Arrest Record:** Have you ever been arrested?
6. **National Origin/Citizenship:** Are you a U.S. citizen? What is your native language? Were you born in the U.S.? Do you have any dual citizenship? What language(s) do you speak at home?
7. **Religion:** Are you religious? What is your religious affiliation? Do you participate in weekly religious services? Do you have any religious restrictions on when or how you can work?
8. **Military Record:** Were you honorably discharged? Can you please provide military records?
9. **Disabilities:** Do you have any physical or mental disabilities? Have you had any recent or past illnesses or operations? Do any diseases or conditions run in your family? Are any members of your family sick? Does anyone in your family have a mental health condition? Can you please complete a medical history form?

Family & Medical Leave Act (FMLA)

OVERVIEW

The FMLA requires certain employers to provide eligible employees with up to 12 weeks of unpaid job-protected leave in a 12-month period for specific medical reasons or emergencies. If an eligible employee is caring for a covered servicemember experiencing a serious injury or illness, the law expands this leave to 26 weeks.

APPLICATION

The FMLA applies to employers with 50 or more employees.



LEAVE REQUIREMENTS

An employer covered by the FMLA must provide eligible employees with 12 weeks of unpaid job-protected leave if the employee requests leave for any of the following qualifying reasons:

1. Birth of a child and to care for the newborn child within one year of birth
2. Placement of a child with the employee for adoption or foster care and to care for the child within one year of placement
3. To care for a child, spouse, or parent who has a serious health condition
4. The employee is experiencing a health condition that makes the employee unable to work
5. A qualifying exigency arising from the employee's spouse, child, or parent being a covered military member on covered active duty

The law requires that employers give 26 weeks of unpaid job-protected leave when an eligible employee is the spouse, child, parent, or next of kin to a covered servicemember experiencing a serious injury or illness.

"Eligible employees" are those that have worked for a covered employer for at least 12 months and have at least 1,250 hours of service for the employer during the 12-month period prior to leave.

Note: Job-protected leave means that the employee returns to the same job, or an equivalent job, with the same pay, benefits, seniority, and other terms and conditions of employment. An employer violates the FMLA if they take any adverse action against an employee for using FMLA leave. Even denial of a bonus for which the employee was entitled prior to leave is a violation of the law.

EMPLOYER RIGHTS

Employers can create procedures for employees to request leave.

If the leave is foreseeable, employees should give at least 30 days' notice. If this is not practical, employees should provide notice as soon as possible.

Employees must provide employers with enough information so that the employer can determine that the leave qualifies for FMLA protection.

Employers are allowed to request certification from an employee's health care provider for the leave.

RECORDKEEPING REQUIREMENTS

Employers providing leave should keep all relevant FMLA leave records for at least three years. This includes employee payroll data, dates of the leave, copies of employee notices, and any other records.

NOTICE

Employers must post the [Your Employee Rights Under the Family and Medical Leave Act](#) poster in a place where employees can readily see it.

ADDITIONAL INFORMATION

For more information on the FMLA, call (866) 487-9243 or visit www.dol.gov/fmla.

Occupational Safety & Health Act (OSH Act)

OVERVIEW

The OSH Act requires employers to provide a safe and healthy workplace for employees. It gives the Occupational Safety and Health Administration (OSHA) the authority to set workplace standards, conduct workplace inspections, and mandate reporting and recordkeeping of workplace incidents.

APPLICATION

All employers are covered by the OSH Act, except:

1. Self-employed persons
2. Farms where only immediate family members are employed

INSPECTIONS

Every business covered by the OSH Act is subject to an OSHA inspection. Here are some helpful high-level tips to keep in mind for an inspection:

- Anything said to OSHA will be recorded and can be used against the employer.
- While it is beneficial to be cooperative and operate in good faith, employers are not legally required to answer the questions of an OSHA inspector during an inspection. They are only required to provide the required logs and documents.
- Immediately correct any apparent hazards disclosed during the inspection. Doing so may diminish the chance that OSHA issues a more severe “willful” citation.
- Ensure the inspector has the name, title, and address of the appropriate contact to handle any inquiries and the official citation.

For a more in-depth overview of how to handle an OSHA inspection in your workplace, consult [NFIB's Guide to OSHA Inspections](#).

RECORDKEEPING & REPORTING REQUIREMENTS

The OSH Act requires employers to keep records of any work-related deaths or injuries. Work-related injuries must be recorded if they result in death, time away from work, restricted work or job transfer, medical treatment beyond first aid, loss of consciousness, or another significant injury or illness diagnosed by a licensed health care professional. Here are the five important recordkeeping steps:



1. Obtain a report on injuries requiring medical treatment
2. Record injuries in the log—OSHA Form 300—according to the instructions
3. Prepare the supplementary record—OSHA Form 301—of occupational injuries and illnesses for recordable cases
4. Prepare the annual summary each year—OSHA Form 300A—and post it in a place where employees can readily see it no later than February 1, while keeping it posted until April 30
5. Keep these records for at least five years

The OSH Act also requires employers to report certain work-related injuries. The deadline for reporting depends on the type of injury:

Work-Related Fatality:

Employers must report the fatality to OSHA within eight hours of the employer learning about the fatality. Only fatalities that occur within 30 days of the workplace incident need to be reported.

- **Example:** Johnny, an employee of XYZ Construction, falls off the roof of a house while installing a new roof. Unbeknownst to Johnny or XYZ Construction, Johnny's fall causes massive internal bleeding, and Johnny passes away the next day. Within eight hours of learning about Johnny's passing, NFIB Construction must report the fatality to OSHA.

Hospitalization, Amputation, or Loss of Eye:

Employers must report the injury to OSHA within 24 hours of learning about the injury. Only hospitalizations, amputations or eye losses that occur within 24 hours of the workplace incident need to be reported.

- **Example:** This time Johnny survives the fall and suffers no injuries except body soreness. Three days later, Johnny has a heart attack requiring hospitalization. XYZ Construction does not need to report Johnny's hospitalization because it occurred more than 24 hours after the workplace incident.

How to Report?

1. By phone to the nearest [OSHA Office](#).
2. The 24-hour OSHA hotline (1-800-321-6742).
3. Online via [OSHA's website](#).

SMALL BUSINESS RECORDKEEPING EXEMPTION:

Employers with 10 or fewer employees do not need to keep injury and illness records, unless OSHA specifically has informed them in writing that they must do so (or their state requires them to do so). These businesses must still report to OSHA any workplace incident that results in death, amputation, the loss of an eye, or hospitalization.

INDUSTRY RECORDKEEPING EXEMPTION:

Businesses in [certain low-hazard industries](#) do not need to keep injury and illness records, unless OSHA specifically has informed them in writing that they must do so (or their state requires them to do so). These businesses must still report to OSHA any workplace incident that results in death, amputation, the loss of an eye, or hospitalization.

SAFETY STANDARDS

Based on its authority under the OSH Act, OSHA has established numerous guidance documents and workplace safety standards, including on topics such as:

- Asbestos
- Autobody Repair and Finishing
- Carcinogens
- Cleaning Industry
- Construction
- Fall Protection and Prevention
- Fire Safety
- Foodborne Disease
- Hazardous Waste
- Heat
- Lead
- Machine Guarding
- Mold
- Motor Vehicle Safety
- Noise
- Personal Protection Equipment
- Sanitation
- Seasonal Flu
- Stress
- Trucking Industry
- Ventilation
- Woodworking, Wood Products, and Wood Dust
- Worker Fatigue

All of OSHA's guidance and safety standards can be found on the [OSHA website](#).

NOTICE

Employers are required to post two different notices.

The [Job Safety and Health: It's the Law](#) poster must be posted in a place where employees can readily see it. Employers in states with OSHA approved plans may also need to post their state's notice.

Employers must also post the [Summary of Work-Related Injuries and Illnesses \(Form 300A\)](#) for the previous year by February 1st and keep it posted until April 30th.

ADDITIONAL INFORMATION

For more information on the OSH Act and employer responsibilities, call (800) 321-6742 or visit [www.osha.gov](#). Locate your nearest OSHA office at [www.osha.gov/contactus/bystate](#).