

美国的职业安全法

Workplace Safety

Laws in the U.S.

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Vincent A. Harrington, Esq.

May Y. Chen, CUNY

讨论的主要话题

Key topics for discussion

- U.S. Occupational Safety and Health Administration (OSHA)
- 美国职业健康安全局 (OSHA)
- Workers Compensation for injuries on the job
- 工作中受伤的老工赔偿
- American with Disabilities Act (ADA)
- 美国残疾人法案 (ADA)

职业健康安全局的历史

History of OSHA

- OSHA stands for the Occupational Safety and Health Administration, an agency of the U.S. Department of Labor
- OSHA's responsibility is worker safety and health protection



- OSHA 是职业健康安全局；是美国劳工部其中的一个机构
- OSHA的职责是负责工人安全 and 健康保护

为什么OSHA对美国工人很重要？

Why is OSHA Important to U.S. Workers?

- OSHA began because, until 1970, there were no national laws for safety and health hazards.
- On average, 15 workers die every day from job injuries
- Over 5,600 Americans die from workplace injuries annually
- Over 4 million non-fatal workplace injuries and illnesses are reported
- OSHA的诞生是因为直到1970年，还没有针对安全与健康危险的国家法律
- 平均每天有15名工人死于工伤
- 每年有5600多个美国人死于工伤
- 超过四百万的非致命的工伤和疾病被报道

WHO ENFORCES THE REQUIREMENTS OF THE OSHA LAW? 谁来执行OSHA的条款？

- The OSHA law is enforced by the Department of Labor, a federal government department, and applies to workplaces with 15 or more employees.

职业健康安全法由劳工部执行，是一个联邦政府部门，适用于有15个或更多个的劳动场所。

- The individual states may also have workplace safety agencies which may establish standards higher than, and not conflicting with, the OSHA requirements.

个别的州可能也有自己的工作场所安全机构建立一些比OSHA要求还更高但是不和它冲突的标准。

工人在职业健康安全法下有什么权利？

What Rights Do Workers Have Under OSHA?

- U.S. workers have the right to:
 - A safe and healthful workplace
 - Know about hazardous chemicals
 - Information about injuries and illnesses in your workplace
 - Complain or request hazard correction from employer
 - Training
 - Hazard exposure and medical records
 - File a complaint with OSHA
 - Participate in an OSHA inspection
 - Be free from retaliation for exercising safety and health rights
- 美国工人有以下这些权利：
 - 拥有一个安全 and 健康的工作场所
 - 了解有危险的化学物品
 - 知道关于你的工作地点受伤和疾病的信息
 - 向雇主控诉或者要求危险校正
 - 训练
 - 危险揭露和医疗记录
 - 向OSHA提出控诉
 - 参与一个OSHA的检查
 - 对于使用安全和卫生权利免受报复

▶ *Your Right to...* 得到培训是你的权利... Training

- Workers have a right to get training from employers on a variety of health and safety hazards and standards that employers must follow.
在很多健康和安全隐患方面工人都权利从雇主那里得到一定标准的训练。



- Some required training covers topics such as, fire safety, blood-borne pathogens, noise, confined spaces, fall hazards in construction, personal protective equipment, along with a variety of other subjects.
一些必须的训练涉及到很多话题，例如，消防安全，血液传染病病菌，噪声，狭窄的工作空间，建设中的坠落危险，个人防护设备，以及一些其他不同的主题。

► *Your Right to...* 你向OSHA投诉的权利...

File a Complaint with OSHA

- Workers may file a complaint with OSHA if they believe a violation of a safety or health standard, or an imminent danger situation, exists in the workplace.
- Workers may request that their name not be revealed to the employer.
- If a worker files a complaint, they have the right to find out OSHA's action on the complaint and request a review if an inspection is not made.
- 如果工人相信在工作地点存有对安全和健康标准的违规，或者工作地点有即将来临的危险情况存在，他们有权向OSHA投诉。
- 工人可以要求不把名字泄露给雇主。
- 如果一个工人进行了投诉，他们有权找出OSHA关于投诉以及在没有进行检查的情况下要求一个检查的行为。

在职业健康安全法下雇主的职责是什么？

What are Employer Responsibilities Under OSHA?

- Provide a workplace free from recognized hazards and comply with OSHA standards
- Provide training required by OSHA standards
- Keep records of injuries and illnesses
- Provide medical exams when required by OSHA standards and provide workers access to their exposure and medical records
- Not discriminate against workers who exercise their rights under the Act (Section 11(c))
- Post OSHA citations and abatement verification notices
- Provide and pay for PPE (personal protective equipment)
- 提供一个无公认危害的工作场所，并遵循OSHA标准
- 提供OSHA标准所要求的训练
- 保存受伤和疾病的记录
- 在被OSHA标准要求的时候提供体检，并且给工人提供他们的医疗和危险物品接触记录
- 不得歧视在这个法案下使用权利的工人（11部分c）
- 公布OSHA引证并核证附注通知
- 提供并支付个人防护设备

美国劳工赔偿法概述

BRIEF OUTLINE OF WORKERS
COMPENSATION LAWS IN THE U.S.

WHAT ARE THE LIABILITY THEORIES OF THE WORKER'S COMPENSATION LAW? 劳工赔偿法的责任理论是什么?

- Worker's Compensation is generally a “no-fault system” as between the worker and the employer. That is, compensation of the employee injured on the job is a cost of doing business of the employer and not based upon a theory of “negligence” by the employer.
- 在工人和雇主之间的工人赔偿一般是“不追究责任的系统”。那就是说，在工作中受伤的员工的赔偿是这个雇主做生意的费用，而不是基于雇主的“疏忽”理论。
- The system is a substitute for lawsuits between the worker and the employer.
- 这个系统替代了工人和雇主之间的诉讼。

- Worker's Compensation systems are based on an insurance-type theory—employers are either “self-insured” to provide the benefits, or purchase Worker's Compensation insurance from a third party insurer.

工人赔偿系统是基于一个保险类型的理论-雇主要么自行提供这个“保险”赔偿的利益，要么从第三方承保人那里购买工人赔偿保险。

- Workers must apply for compensation and prove that their injuries or health problems are work-related.

工人必须申请赔偿并证明他们的受伤和健康问题是与工作有关的。

劳工赔偿救济方法

Workers Compensation remedies

- Compensation is paid for workplace injuries or illnesses by the Employer or his insurance carrier.
- 100% medical costs and about 66% of lost wages.
- Payment continues as long as the condition continues.
- 赔偿由雇主或者他的保险公司支付给工作地点受伤或得病的工人。
- 100%的医疗费用以及66%的工资损失。
- 只要病情，伤情继续下去，支付也会继续下去。

永久性的伤残

Permanent Disability

- When the worker has become “permanent and stationary” with regard to the injury, an award of permanent disability benefits may include monetary awards, as well as future medical treatment paid by the employer or insurer.
- 当这名工人的伤势已经变为“永久性和固定的”时候，由雇主或者保险公司支付永久性伤残救济金，可以包括金钱赔偿和未来医疗治疗的费用。

WHO ADMINISTERS THE WORKER'S COMPENSATION SYSTEM? 谁来管理劳工赔偿系统?

- In general, these systems are administered by a state agency, such as in California or New York.
总的来说，这些系统由一个州机构来管理，例如加利福尼亚州或者纽约州。
- These state agencies can resolve disputes about the nature or extent of the remedies available to workers, but they are not “judicial” agencies; rather, they are administrative agencies using administrative law judges for such cases.
这些州机构可以解决关于事件的性质和赔偿的争端，但它们不是“司法”机构；它们是行政机构，对这些案例安排的也会是行政法法官。

Other benefits for injured workers

受伤工人的其他福利

- Disability benefits – not for job-related injury or illness, or when workers comp is disputed.
- Social Security Disability for workers unable to work for 12 months or more.
- Unemployment Insurance for laid off workers
- 伤残利益-不是为与工作相关的受伤或者疾病，或者当工人赔偿受到争议的时候。
- 没有能力工作12个月或者更长时间的伤残工人可得到社会安保的残疾救济金
- 下岗工人的失业保险金。

Worker Cases 工人案例

- Ana Hernandez, age 47
 - Worked as nursing assistant, injured moving hospital patients, developed chronic back pain, bulging discs, pressure on sciatic nerve
 - Permanently disabled, receiving workers compensation and social security disability benefits.
- 安娜赫尔南德斯，年龄47岁
 - 做助理护士的工作，护送医院病人过程中受伤，患有慢性的背痛，椎间盘突出，压迫坐骨神经
 - 永久性伤残，接受工人赔偿和伤残社会安保利​​益。

Worker Cases 工人案例

- Philip Rowe, age 54
- Maintenance worker for Walmart, injured neck, arm, and back moving furniture and sporting goods.
- Spinal fusion and cervical radiculopathy; denied workers compensation.
- Permanently disabled, living on social security disability and family support.
- 菲利普·罗，54岁
- 沃尔玛维修工人，颈部、手臂、背部因搬运家具和体育用品受伤。
- 脊柱融合和颈神经根病；工伤赔偿遭拒。
- 终身残疾，靠残疾人社会保障和家庭援助生活。

美国残疾人法

AMERICANS WITH DISABILITIES ACT (ADA)

**THE AMERICANS WITH DISABILITIES ACT (“ADA”) WAS
ORIGINALLY PASSED IN 1990, AND SIGNIFICANTLY AMENDED
IN 2009.**

美国最初于1990年通过残疾人法案，并于2009修订该法案
多出。

- It is a national (federal) law which applies to employers of 15 or more employees.

该法案是一部国家（联邦）法律，适用于拥有15员工以上的雇主。

- It applies throughout the country; states may also enact non-conflicting laws which provide greater benefits.

该法案在全国各地适用;各州还可以与其不冲突情况下制定带来更好福利的法律。

ADA为工人带来了什么福音？

WHAT DOES THE ADA PROVIDE FOR WORKERS?

- The ADA prohibits discrimination in employment or in the benefits of employment of persons with physical or mental disabilities as defined by the law.
ADA规定，禁止歧视患有法定身体或精神残疾者就业或享受就业福利的权利。

- A worker is considered “disabled” if he/she (1) has an actual physical or mental impairment that substantially limits a major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

如果工人存在以下情况，那么他/她可以被认定为“残疾人”（1）存在身体或精神的残疾，而这种残疾严重限制了人生活活动；（2）有残疾的记录；或（3）视同伤残。

ARE WORKERS PROTECTED UNDER THE ADA FOR REQUESTING ACCOMMODATION?

工人要求照顾性安排
会受到《美国残疾人法》的保护吗？

- **Requesting accommodation is a protected activity under the ADA and employees may not be retaliated against for seeking the law's protection.**
- **要求照顾性安排是受《美国残疾人法》保护的行动，员工不可因寻求法律保护而遭报复。**