



1

## What is Workers' Compensation?

- > “The Grand Bargain”
- > Provides medical benefits and wage replacement to employees of WC policyholders injured or killed on the job.
  - > Employer is the policyholder, the employee is the claimant
- > Texas WC system is governed by:
  - > Texas Workers' Compensation Act, Tex. Lab. Code §§401.001 *et seq.*
  - > TDI-DWC Rules, 28 Tex. Admin Code chs. 1 - 180

2

1

## Why have Workers' Compensation Insurance?

### Subscriber vs. Non-Subscriber Exposures

- › Subscriber - Maintains WC insurance for employees
- › Non-Subscriber - Does not maintain WC insurance

3

## Subscribers to Workers' Compensation

- › No-fault system
  - › WC benefits without proving negligence of employer, regardless of negligence of the employee
  - › If a compensable injury, the employee is entitled to lifetime medical benefits for the injury
- › Exclusive Remedy Defense available
  - › Except in instances of death caused by employer's intentional act or gross negligence, an injured employee may not recover damages for the negligence or fault of the employer

4

## Non-Subscribers to Workers' Compensation

- › Do not provide medical and indemnity benefits through WC
- › “Go Bare” - *Exposed* to civil liability for employee's injury in the course and scope of employment
  - › Employee may bring a PI suit AND Employer is prohibited from raising certain common law defenses, including
    - › Contributory negligence
    - › Assumption of risk
    - › Injury was caused by the negligence of a fellow employee

5

## How does workers' compensation work?

WC triggered when an employee is injured in the course and scope of employment, but liability for and the timing of benefits are deadline driven.

- › EE must report injury w/in 30 days, file claim within 1 year
- › ER must report injury to Carrier w/in 8 days of the date: (1) employee loses more than 1 day of work, (2) employer receives notice of an occupational disease
- › Carrier must file with TDI-DWC, First Report of Injury, w/in 7 days of notice from ER
- › Investigation by Carrier begins on receipt of notice of injury

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Workers' Comp 101: The Basics of the Workers' Compensation in Texas

Also available as part of the eCourse

[2023 School Law eConference](#)

First appeared as part of the conference materials for the  
38<sup>th</sup> Annual School Law Conference session

"Workers' Comp 101: The Basics of the Workers' Compensation in Texas"