

Chapter 61, Texas Labor Code
FREQUENTLY ASKED QUESTIONS

Q: How long does an employer have to keep a paycheck active, if it has been properly delivered, but the employee does not cash it?

A: The Payday Law does not specifically address this issue, however, it does state that an employee has the right to file a claim for unpaid wages up to 180 days from the date the wages were due to be paid (Sec. 61.051 (c)). In addition, the employee might be able to pursue action through other venues such as a lawsuit, or through the U.S. Department of Labor (DOL).

Q: Do employees have to be provided with a check stub?

A: The Texas Minimum Wage Act (Sec. 62.003) requires employers to provide an earnings statement to their employees which includes hours worked, rate of pay, total amount of pay for the period and any deductions made from the check and their purpose. However, there is no agency currently charged with enforcement of this provision.

Q: If employees are required to work on a holiday are they entitled to 'premium' pay?

A: Premium pay is generally set by individual company policy. There are no state or federal laws affecting Texas which require an employer to pay additional wages for working on any day of the year (holidays) or week (weekends).

Q: Do employees have to be paid for attending meetings or training sessions?

A: The Payday Law requires that employees be paid for all time worked. Although the Payday Law does not specifically address this issue, the U.S. Department of Labor (DOL) does address the issue of 'compensable time.' Compensable time is normally defined as "all the time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place." Generally, these are hours for which the employer must pay an employee. For additional information on this topic, contact DOL at 1-866-487-2365.

Q: An employee has quit and is due a final paycheck. He/she is currently in possession of company property. Can an employer hold the paycheck until the property is returned?

A: Even if an employee is in possession of company property, the Texas Payday Law provides that in such a case, wages may be withheld only when the employer is authorized to do so by law, required to do so by a court or has written authorization from the employee for the deduction. Otherwise, the employer would need to attempt to recoup the property by some other means, such as civil remedies (i.e. lawsuit, small claims court, police report) or arrangements with the employee outside of a wage deduction.

Q: Can an employer make deductions from severance pay, commissions, bonuses or amounts paid in lieu of vacation time which are due to an employee under a written company policy or agreement?

A: The Texas Payday Law provides that wages may be withheld only when the employer is authorized to do so by law, required to do so by a court or has written authorization from the employee for the deduction. In addition under Texas Family Code §158.214 and §158.215, an employer who has received an income withholding order is required to withhold from pay an amount equal to the amount the employer would have withheld under the order for income withholding. For example, if the severance pay is equal to three months of the employee's wages, then the employer would have to deduct three times the amount of the obligation in the income withholding order.

Q: An employee has handed in his/her '2-weeks notice' resignation. Does an employer need to let the employee work until that time and pay them for it?

A: The Texas Payday Law does not address the issue of termination. There is no provision in the Payday Law that requires an employer to maintain an individual's employment status until the date indicated on a resignation or which automatically requires an employer to pay that individual beyond the time they actually work.

Q: Does an employer need to provide an employee with the reason for terminating him/her?

A: The Texas Payday Law does not address the issue of termination. Texas, however, is an "employment at will" state. This means that the employment relationship between employer and employee exists by the agreement of both parties. This gives the employee the right to quit at any time or for the employer to terminate the employee at any time and for any legal reason.

Q: After what length of time does an employer need to provide its employees with a break/lunch period? Do these times need to be paid?

A: The Texas Payday Law does not address the issue of rest breaks or meal breaks. There is no current legislation in the state of Texas requiring an employer to provide breaks - they are optional. Work schedules, including breaks, regular hours and overtime hours, are left to the discretion of the employer and are usually based on the needs of the business. However, if breaks are given, the U.S. Department of Labor (DOL) has guidelines on this issue. If "coffee breaks/rest breaks," consisting of 20 minutes or less are given, they must be paid. They are paid because they are considered to be beneficial to the employer since they generally promote productivity and efficiency on the part of the employee. "Lunch breaks," defined as a break of 30 minutes or longer for the purpose of eating a meal, where the employee is fully relieved of duties (performing no work), do not have to be paid. For additional information on this topic, you can contact DOL at 1-866-487-2365.

Q: Does an employer have to offer its employees vacation pay? If so, what are the guidelines?

A: Under the Texas Payday Law an employer is not required to offer fringe benefits such as vacation pay, holiday pay or other pay for hours not worked. However, if the employer offers these benefits in writing, the employer would be obligated to comply with their own policy or employment agreement. The employer has the right to establish policy on how these benefits are earned, accrued, used and if they are paid out when not used, barring any policy which might be considered discriminatory as defined by law.

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IT SHOULD BE NOTED THAT THIS DOCUMENT IS NOT THE COMPLETE TEXT OF THE TEXAS PAYDAY LAW AND PAYDAY RULES, NOR IS IT WRITTEN IN THE EXACT LANGUAGE OF THAT LAW OR RULES. IT IS INTENDED AS AN INFORMAL EDUCATIONAL TOOL FOR THE BENEFIT OF EMPLOYERS IN TEXAS.

**SHOULD YOU HAVE QUESTIONS ABOUT THE PAYDAY LAW AND PAYDAY RULES,
PLEASE CONTACT TWC LABOR LAW SECTION AT:**

1-800-832-WAGE (9243)/TDD 1-800-735-2989 or Visit our website: <http://www.twc.state.tx.us/ui/lablaw/lablaw.html>