

**LABOR CODE**  
**TITLE 2. PROTECTION OF LABORERS**  
**SUBTITLE C. WAGES**  
**CHAPTER 61. PAYMENT OF WAGES (SELECTED SECTIONS)**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section 61.001. Definitions

**SUBCHAPTER B. PAYMENT OF WAGES**

Section 61.011. Paydays

Section 61.012. Designation of Paydays; Notice

Section 61.013. Payment Other Than on Payday

Section 61.014. Payment After Termination of Employment

Section 61.015. Payment of Commissions and Bonuses

Section 61.016. Form of Payment

Section 61.017. Delivery of Payment

Section 61.018. Deduction from Wages

Section 61.019. Failure to Pay Wages; Criminal Penalty

Section 61.020. Failure to Pay Wages; Attorney General Action

**SUBCHAPTER A.**  
**GENERAL PROVISIONS**

**Section 61.001. Definitions**

In this chapter:

(1) "Commission" means the Texas Workforce Commission.

(2) "Day" means a calendar day.

(3) "Employee" means an individual who is employed by an employer for compensation.

The term does not include:

(A) a person related to the employer or the employer's spouse within the first or second degree by consanguinity or affinity, as determined under Chapter 573, Government Code; or

(B) an independent contractor.

(4) "Employer" means a person who:

(A) employs one or more employees; or

(B) acts directly or indirectly in the interests of an employer in relation to an employee.

(5) "Employment" means any service, including service in interstate commerce, that is performed for wages or under a contract of hire, whether written or oral or express or implied. The term does not include any service performed by an individual for wages if it is shown that the individual is free from control or direction in the performance of the service, both under any contract of service and in fact.

(6) "Mail" means to deposit for mailing with the United States Postal Service.

(7) "Wages" means compensation owed by an employer for:

(A) labor or services rendered by an employee, whether computed on a time, task, piece, commission, or other basis; and

(B) vacation pay, holiday pay, sick leave pay, parental leave pay, or severance pay owed to an employee under a written agreement with the employer or under a written policy of the employer.

## **SUBCHAPTER B. PAYMENT OF WAGES**

### **Section 61.011. Paydays**

(a) An employer shall pay wages to each employee who is exempt from the overtime pay provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) at least once a month.

(b) An employer shall pay wages to an employee other than an employee covered by Subsection (a) at least twice a month.

(c) If wages are paid twice a month, each pay period must consist as nearly as possible of an equal number of days.

### **Section 61.012. Designation of Paydays; Notice**

(a) An employer shall designate paydays in accordance with Section 61.011.

(b) If an employer fails to designate paydays, the employer's paydays are the first and 15th day of each month.

(c) An employer shall post, in conspicuous places in the workplace, notices indicating the paydays.

### **Section 61.013. Payment Other Than on Payday**

An employer shall pay an employee who is not paid on a payday for any reason, including the employee's absence on a payday, on another regular business day on the employee's request.

### **Section 61.014. Payment After Termination of Employment**

(a) An employer shall pay in full an employee who is discharged from employment not later than the sixth day after the date the employee is discharged.

(b) An employer shall pay in full an employee who leaves employment other than by discharge not later than the next regularly scheduled payday.

### **Section 61.015. Payment of Commissions and Bonuses**

(a) Wages paid on commission and bonuses are due according to the terms of:

(1) an agreement between the employee and employer; or

(2) an applicable collective bargaining agreement.

(b) An employer shall pay wages paid on commission and bonuses to an employee in a timely manner as required for the payment of other wages under this chapter.

**Section 61.016. Form of Payment**

- (a) An employer shall pay wages to an employee:
  - (1) in United States currency;
  - (2) by a written instrument issued by the employer that is negotiable on demand at full face value for United States currency; or
  - (3) by the electronic transfer of funds.
- (b) An employee may agree in writing to receive part or all of the wages in kind or in another form.
- (c) Payment by a written instrument that is not negotiable or for which payment is refused for any reason attributable to the employer does not constitute payment of wages for the purposes of this chapter.

**Section 61.017. Delivery of Payment**

- (a) An employer shall pay wages through a means authorized by this section.
- (b) An employer may pay wages by:
  - (1) delivering them to the employee at the employee's regular place of employment during regular employment hours;
  - (2) delivering them to the employee at a time and place agreed on by the employer and employee;
  - (3) sending them to the employee by registered mail, to be received by the employee not later than payday;
  - (4) delivering them in a manner similar to a manner specified by Subdivision (1), (2), or (3) to a person designated by the employee in writing; or
  - (5) delivering them to the employee by any reasonable means authorized by the employee in writing.
- (c) An employer may elect to pay wages to an employee who maintains at a financial institution an account that qualifies for electronic funds transfer through a direct deposit plan that uses electronic funds transfer to deposit the wages in the employee's account. An employer who desires to pay wages through a direct deposit plan shall:
  - (1) notify each affected employee in writing, at least 60 days before the date on which the direct deposit payroll system is scheduled to begin, that the employer is adopting a direct deposit payroll system; and
  - (2) obtain from the employee any information required by the financial institution in which the employee maintains the account that is necessary to implement the electronic funds transfer.

**Section 61.018. Deduction From Wages**

- An employer may not withhold or divert any part of an employee's wages unless the employer:
- (1) is ordered to do so by a court of competent jurisdiction;
  - (2) is authorized to do so by state or federal law; or
  - (3) has written authorization from the employee to deduct part of the wages for a lawful purpose.

**Section 61.019. Failure to Pay Wages; Criminal Penalty**

- (a) An employer commits an offense if:
  - (1) at the time of hiring an employee, the employer intends to avoid payment of wages owed to the employee; and
  - (2) the employer fails after demand to pay those wages.
- (b) An employer commits an offense if the employer:
  - (1) intends to avoid payment of wages owed to an employee;
  - (2) intends to continue to employ the employee; and
  - (3) fails after demand to pay those wages.
- (c) An employer commits a separate offense under Subsection (b) for each pay period during which the employee earns wages that the employer fails to pay.
- (d) An offense under this section is a felony of the third degree.

**Section 61.020. Failure to Pay Wages; Attorney General Action**

The attorney general may seek injunctive relief in district court against an employer who repeatedly fails to pay wages as required by this chapter.