

Who Is Covered and What Injuries Are Covered By the Alabama Workers

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Employers Covered by the Act:

Most private employers with five or more Employees in any one business are included by the Alabama Workers' Compensation Act. The Act, however, excludes the following employers and Employees:

1. Domestic servants;
2. Farm Employees who employers have not chosen to come under the Act;
3. Casual Employees – employees hired temporarily for a function outside the usual course of the employer's business;
4. Employees not working in the usual course of their employer's business;
5. State Employees and some city and County Employees;
6. Employers with less than five Employees, unless they opt in or unless they engage in on-site construction of single-family detached residential dwellings; and
7. Independent contractors – persons over whom the employer's right of control extends no further than directing what is ultimately to be

accomplished. Many workers who are claimed by their employers to be independent contractors are actually employees within the meaning of the Act.

Injuries Covered Under the Act:

Compensation is due to an Employee for any injury, occupational disease, or death caused by an "accident arising out of and in the course of his employment." Most injuries that occur while an Employee is on duty are compensable. However, there are exceptions to this rule. The major exceptions are where the Employee is (1) intoxicated while working (2) is engaged in "willful misconduct" such as horseplay, or (3) fails to safety regulations or use required safety equipment. The burden of providing that one of these exceptions applies is on the employer.

The definition of "injury" under the Act has been expanded to include cumulative trauma disorders (such as carpal tunnel syndrome) if the disorder arises out of and in the course of employment. Mental or emotional disorders are excluded from the definition unless they are caused by a compensable physical injury.

An Employee may be compensated for an occupational disease related to the Employee's occupation if the disease arises out of and in the course of his employment.

Examples of "occupational diseases" are lung conditions such as bronchial asthma or chronic bronchitis caused by inhaling dusts or fumes on the job, black lung, silicosis, asbestosis, or brown lung.

Hearing loss caused by occupational noise exposure is compensable under the Act. Some courts have treated occupational hearing loss as an injury, and other courts have treated it as an occupational disease.

An existing heart condition is compensable only if it is aggravated by employment conditions. An example is an electric shock that aggravates a heart valve defect. Injury or death caused by emotional strain is not compensable.

Personal risks, such as those arising out of purely personal conditions such as birth defect or epilepsy, are generally not compensable unless it can be shown that the condition was aggravated by work.

Neutral risks, sometimes called "acts of God," such as injury or death by a stray bullet, are traditionally seen as risks that everyone assumes and therefore not compensable under the Act. However, many courts today view personal and neutral risks as covered by the Act if some connection between job and the Employee's injury can be shown.