

Lesson 7: Unions, Wages, and Safety

In this lesson, we will explore labor law, which involves collective bargaining between employers and employees, through employees' elected representatives. We will also cover the law of wages and hours, as set forth primarily by federal law. Finally, we will cover another area of great importance—health and safety.

LEARNING OBJECTIVES

✓ **Objective 1** Discuss the evolution of labor law in the United

✓ **Objective 3** Identify the key provisions of the Fair Labor Standards Act.

✓ **Objective 2** Explain the concept of collective bargaining.

✓ **Objective 4** Summarize the rationale behind current federal regulations that enforce health and safety standards in the workplace.

Text Readings

Employment Law: New Challenges in the Business Environment, Chapters 18, 19, 20 and 22

Additional Readings

Required Readings

- U.S. Steelworkers, AFL-CIO-CLC v. Weber, 443 U.S. 193 (1979)
(<https://www.law.cornell.edu/supremecourt/text/443/193>).
- Right to Work States(<http://www.nrtw.org/rtws.htm>)

Supplemental Readings

- U.S. Department of Labor(<https://www.dol.gov/>)
- Department of Occupational Safety and Health(<https://www.osha.gov/>)

Lecture Notes

Welcome to Lesson 7. We begin this lesson with a review of labor law, an area of law that is separate and distinct from employment law. Labor law involves *collective bargaining* between employers and employees, who are represented by unions. The two entities work to reach agreement regarding issues in the workplace. Rather than each employee negotiating individually with his or her employer, labor law permits employees to bargain with employers in an organized and collective fashion. Labor law grew out of the rise in manufacturing and the burgeoning labor class that developed during the early 1800s.

Labor law in the United States has a long and acrimonious history. In the 1800s, many courts considered activities by workers such as striking and picketing to be criminal conspiracies. Workers were tried and convicted for trying to improve working conditions through union activities. Big business also sought injunctions against strikes, forced workers to sign yellow-dog contracts (a pledge signed prior to employment not to join a union), and used antitrust laws to battle unions. Congress passed the labor laws described in your textbook in the 1920s, 1930s, and 1940s to put unions (i.e., workers) on a somewhat more equal footing.

Some interesting facts about the 2010 data are as follows.

- The union membership rate for public sector workers (36.2%) was substantially higher than the rate for private sector workers (6.9%).
- Workers in education, training, and library occupations had the highest unionization rate at 37.1%.
- Black workers were more likely to be union members than were white, Asian, or Hispanic workers.
- Among states, New York had the highest union membership rate (24.2%), and North Carolina had the lowest rate (3.2%).

Human Resource professionals who work in a unionized workplace are likely fairly familiar with the protections afforded unions and their members under the

labor laws. Those who have not worked in a unionized workplace or are not familiar with the laws need to gain a basic understanding of the do's and don'ts. Employers are understandably eager to maintain a union-free workplace whenever possible. However, employers that are overly zealous in this regard risk unfair labor practice charges. Employees may attempt to organize a union in their workplace by signing a sufficient number of authorization cards and by voting in a union during a union representation election. While the employer can make known its position that a union is not a good choice, it may not interfere with organizational efforts. A good resource for information on labor law is the National Labor Relations Board. Its website is <https://www.nlr.gov/>.

Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) sets basic minimum wage and overtime pay standards. The FLSA is administered by the U.S. Department of Labor's Wage and Hour Division, which has the authority to investigate possible violations, issue regulations, and enforce the Act. Employers are required to keep records on wages paid and hours worked. Willful violations of the FLSA are crimes punishable by fines of up to \$10,000, and second convictions may result in imprisonment. Civil penalties apply to child labor violations. The FLSA prohibits retaliation against employees who file a complaint or participate in a proceeding under the Act. Employees may recover back wages from an employer for underpayment of wages. There is a two-year statute of limitations, which extends to three years for willful violations.

Note that while FLSA sets *federal* minimum wage laws, many states have their own wage and hour laws. State wages can be higher than the federal minimum, but they cannot be lower. Visit the following website to learn how wages vary from state to state

(<https://www.dol.gov/whd/minwage/america.htm>). Employers are required to follow the law and pay federal or state minimums, according to whichever is most advantageous to the worker. Under federal law, overtime is required for nonexempt workers after 40 hours in a given work week. Human Resource managers must stay abreast of current federal and state laws in this area. An excellent source of information on employers' duties in this area is [www.dol.gov\(https://www.dol.gov/courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../www.dol.gov\)](https://www.dol.gov/courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../www.dol.gov). When you visit <https://www.bls.gov/bls/ofolist.htm> you can click on any state and find valuable information about job markets in each state, including unemployment rates and wages, as well as links for job seekers and hot topics.

Recently, some cities have begun raising wages for minimum wage earners. Seattle is the first major city to set minimum wages at \$15 an hour, an increase that must take effect by 2018. The Seattle City Council voted unanimously to raise wages to address income inequality. According to Councilmember Bruce Harrell, "This is a historic moment: the culmination of workers banding together over a year ago to raise the national debate on income inequality. Seattle listened and today, we are acting to help workers earn a living wage. This is one of the most important race and social justice-related legislation enacted, most positively impacting people of color, women and immigrants. We must continue working with small businesses and the ethnic minority community to support their growth and help them succeed."

(<https://www.seattle.gov/council/issues/minimumwage/default.html>).

Los Angeles and San Francisco have followed suit, and New York may follow. Opponents of the increase, understandably, are small-business owners. Comix Experience, a small book store located in downtown San Francisco, has begun selling graphic novel club subscriptions in order to meet payroll. The owner admits the subscribers are not getting much for their monthly fee, but claims he resorted to selling subscriptions in order to make payroll.

(<https://www.foxnews.com/politics/2015/07/22/seattle-sees-fallout-from-15-minimum-wage-as-other-cities-follow-suit/>). Such wages will likely cause prices to rise for consumers. What do you believe is a fair resolution to such a dilemma? As one owner of a fast-food place put it, consumers will only pay so much for a hamburger. These increases in wages are definitely food for thought.

Occupational Safety and Health Act

Finally, we delve into workplace safety and health by examining the Occupational Safety and Health Act (the Act) and the agencies that deal with this law. More than 4,500 fatal work injuries were recorded in the United States in 2010. The rate of fatal work injury for U.S. workers in 2010 was 3.5 per 100,000 full-time equivalent (FTE) workers. Prior to the passage of the Act in 1970, employers were bound only by the common law to provide employees with a safe workplace. Further, employers had several common law defenses that often enabled them to avoid liability.

Recently, Bumblebee Tuna settled a lawsuit for \$6 million. One of its workers suffered a grisly death. He was cooked to death, along with 12,000 pounds of tuna when he was making repairs inside an industrial oven. His coworkers, unaware that he was inside the pressure cooker, closed the oven doors and turned it on. The company and two of its workers have been charged with the felony of willfully disobeying safety regulations.

(<https://www.usatoday.com/story/news/nation/2015/04/28/bumble-bee-tuna-worker-death-cooked-oven/26502033/>).

Human Resource professionals should research and familiarize themselves with the safety and health standards applicable to their workplaces. A wealth of information can be found at <https://www.osha.gov/>. This site includes a special section devoted to assisting small business, as well as interactive tools to help employers and employees. Free workplace consultations are available in every state to small businesses that want onsite help in establishing safety and health programs and identifying and correcting workplace hazards. In addition, OSHA has a network of Compliance Assistance Specialists in local offices available to provide tailored information and training to employers and employees.

OSHA covers 85 million workers in more than 5 million workplaces. Any employer that has employees and is in a business affecting commerce is covered by the Act, which imposes two basic requirements on employers to accomplish the objective of maintaining a safe workplace: (1) The employer must comply with all the safety and health standards set by the Department of Labor; and (2) the employer must furnish to each of its employees a workplace free from recognized hazards that are causing or likely to cause death or serious physical harm. If all of the following conditions are met, employees have the right to refuse to perform certain duties.

- Where possible, you have asked the employer to eliminate the danger, and the employer failed to do so; and
- You refused to work in "good faith." This means that you must genuinely believe that an imminent danger exists; and
- A reasonable person would agree that there is a real danger of death or serious injury; and
- There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection.

Employees should take the following steps.

- Ask your employer to correct the hazard, or to assign other work;
- Tell your employer that you won't perform the work unless and until the hazard is corrected; and
- Remain at the worksite until ordered to leave by your employer (<https://www.osha.gov/right-to-refuse.html>).

Sometimes baffling accidents occur. On August 17, 2015, a Spokane worker at Pacific Steel died when chlorine gas leaked from a one-ton container that workers were crushing for scrap metal. Chlorine gas is used widely in industry, but the gas is so toxic it was used as a form of chemical warfare in World War I. The Washington State Department of Labor & Industries has been called in to investigate the accident (<https://www.spokesman.com/stories/2015/aug/17/worker-sickened-in-chlorine-gas-leak-dies/>).

Right to Work

Today, unions do not enjoy the popularity they once held. According to statistics collected by the U.S. Department of Labor, union membership rates have fallen from a high of 20.1% (17.7 million) in 1983, the first year for which comparable union data is available, to 11.9% (14.7 million) of wage and salary earners in 2010. The number of states that have adopted a "right to work" policy, which means that joining a union is not compulsory, is currently in flux. Some argue that this policy benefits the workers because they don't have to pay dues to a union that they regard as unhelpful. Others contend that, among other things, such laws result in lower wages and less benefits for workers. Visit the following website to learn the pros and cons of "right to work" laws: <https://www.nrtw.org/rtws.htm>. (Keep in mind that this website is pro "right to work," and note, too, how many "right to work" states are concentrated in the South). Do you agree or disagree with these laws?

References

<http://www.foxnews.com/politics/2015/07/22/seattle-sees-fallout-from-15-minimum-wage-as-other-cities-follow-suit/>

<http://www.nrtw.org/rtws.htm>

<https://www.osha.gov/right-to-refuse.html>

<http://www.seattle.gov/council/issue/MinimumWage/default.html>

<http://www.seattle.gov/council/issues/minimumwage/default.html>

<http://www.spokesman.com/stories/2015/aug/17/worker-sickened-in-chlorine-gas-leak-dies/>

<http://www.usatoday.com/story/news/nation/2015/04/28/bumble-bee-tuna-worker-death-cooked-oven/26502033>

PowerPoint Lecture Notes

Use the lecture notes available in PowerPoint as you study this chapter by CLICKING THE LINK BELOW. These notes will help you identify main concepts and ideas presented in this chapter.

If you do not have PowerPoint on your computer, you can download a free viewer from Microsoft by clicking

here(<http://www.microsoft.com/downloads/details.aspx?FamilyID=048dc840-14e1-467d-8dca-19d2a8fd7485&DisplayLang=en>).

Chapter 18([https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-](https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../V3/PowerPoints/chapter18.ppt)

[files/Lesson_07/.../V3/PowerPoints/chapter18.ppt](https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../V3/PowerPoints/chapter18.ppt)).

Chapter 19([https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-](https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../V3/PowerPoints/chapter19.ppt)

[files/Lesson_07/.../V3/PowerPoints/chapter19.ppt](https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../V3/PowerPoints/chapter19.ppt)).

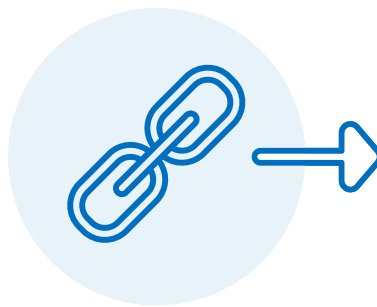
Chapter 20([https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-](https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../V3/PowerPoints/chapter20.ppt)

[files/Lesson_07/.../V3/PowerPoints/chapter20.ppt](https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../V3/PowerPoints/chapter20.ppt)).

Chapter 22([https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-](https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../V3/PowerPoints/chapter22.ppt)

[files/Lesson_07/.../V3/PowerPoints/chapter22.ppt](https://courses.portal2learn.com/content/enforced/9112-R01V_20_1/course-system-files/Lesson_07/.../V3/PowerPoints/chapter22.ppt)).

[06] Lessons 6 & 7 Exam



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