



BARBERS' AND COSMETOLOGISTS' LABOR RIGHTS

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DEFINING "EMPLOYEES"

In general, state labor laws apply only to employers and "employees" in an employment relationship.

Under common law, which generally applies unless a statute specifies differently, an employer-employee relationship exists when the business for which a worker performs services has the right to direct and control the worker. Workers subject to such control are considered "employees."

Under the "ABC test," which applies to unemployment law, a worker is considered an employee unless (A) the worker has been and will be free from any control or direction, (B) the service being performed is outside the employer's usual course of business or usual place of business, and (C) the worker is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the service being performed.

QUESTIONS

What labor rights, including retirement, do barbers and cosmetologists have under state law? Have other states passed legislation providing labor rights specific to barbers' and cosmetologists?

The Office of Legislative Research is not authorized to issue legal opinions and this report should not be considered as one.

BARBERS AND COSMETOLOGISTS

To the extent that they are considered "employees," state labor laws provide barbers and cosmetologists with the same labor rights, protections, and benefits as other employees. Among other things, these can include minimum wage and overtime pay requirements, the right to collectively bargain, anti-discrimination protections, workers' compensation coverage, and unemployment insurance benefits. If their employer is large enough, these employees may also be eligible for family and medical leave (for employers with at least 75 employees) and paid sick leave (for employers with at least 50 employees). State law does not provide any private-sector

employees with retirement benefits, although both state and federal law protect those that have been collectively bargained or otherwise obtained through a contractual agreement with an employer.

Many barbers and cosmetologists, however, may not be considered “employees” of the barbershop or facility in which they work. In some instances, a barber or cosmetologist who rents or leases space in a barber shop or salon could be considered self-employed and therefore not provided with the same legal protections given to employees (although he or she could choose to obtain worker’s compensation insurance coverage). A person’s employment status is typically determined on a case-by-case basis. It depends on a variety of factors which can differ according to the particular labor law being applied and the specifics of the working relationship between the worker and the business owner (see sidebar). Whether or not a worker is a barber or cosmetologist should not necessarily be a determinative factor on its own. For additional information on how “employees” are defined under state law, see OLR Report [2013-R-0027](#).

Workers who believe that they are employees, but are not being treated as such can contact the state [Department of Labor](#) (for wage, employment regulation, and unemployment complaints), the [Workers’ Compensation Commission](#) (for workers’ compensation complaints), the [State Labor Relations Board](#) (for unfair labor practices complaints), or the [Commission on Human Rights and Opportunities](#) (for discrimination complaints). They can also file a complaint with the [Joint Enforcement Commission on Employee Misclassification](#).

We were unable to find any recently enacted state legislation that specifies barbers’ or cosmetologists’ labor rights or provides them with labor rights different than other employees. Although in 2012, Vermont’s legislature considered, but did not enact, [a bill](#) that classified a cosmetologist who rents a booth at a salon as the salon’s employee, unless (1) the salon had no right to control the cosmetologist’s methodology and (2) the cosmetologist paid the salon a flat fee or a fixed percentage of his or her gross receipts.

RESOURCES

Connecticut Department of Labor, <http://www.ctdol.state.ct.us/>

Worker's Compensation Commission, <http://wcc.state.ct.us/>

State Labor Relations Board, <http://www.ctdol.state.ct.us/csblr/>

Commission on Human Rights and Opportunities,
<http://www.ct.gov/chro/site/default.asp>

Joint Enforcement Commission on Employee Misclassification,
<http://www.ctdol.state.ct.us/wgwkstnd/JEC/JEC.htm>

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