



TOSHA INSTRUCTION

TENNESSEE DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY & HEALTH

DIRECTIVE NUMBER: CPL-TN 02-00-125
(CPL-TN 2-0.125)

EFFECTIVE DATE: September 26, 2000

SUBJECT: Home-Based Worksites

ABSTRACT

A. PURPOSE: This instruction provides guidance to TOSHA's compliance personnel about inspection policies and procedures concerning worksites in an employee's home. This instruction supersedes all previous statements and guidance on the subject

B. SCOPE: This instruction applies throughout the Division of Occupational Safety and Health (TOSHA), Tennessee Department of Labor and Workforce Development.

C. REFERENCES:

1. Chapter I. C. of the TOSHA Field Operations Manual (FOM), dated March 29, 1996.
2. TOSHA Instruction CPL 2.115, CH 1 - "Complaint Policies and Procedures".

D. ACTION: Section Managers and Area Supervisors will ensure that the policies and procedures regarding employee home-based worksites set forth in this instruction are followed.

E. DEFINITIONS:

1. Home-Based Worksite: The areas of an employee's personal residence where the employee performs work of the employer.
2. Home Office: Office work activities in a home-based worksite (e.g., filing, keyboarding, computer research, reading, writing). Such activities may include the use of office equipment (e.g., telephone, facsimile machine, computer, scanner, copy machine, desk, file cabinet).

F. BACKGROUND: The Department of Labor and Workforce Development strongly supports telecommuting and telework. Family-friendly, flexible and fair work arrangements, including telecommuting, can benefit individual employees, their families and employers.

The purpose of the Tennessee Occupational Safety and Health Act of 1972 (TOSH Act) is to "assure so far as possible every working man and woman in the Nation safe and healthful working conditions...." (Section 50-3-102). The TOSH Act applies to a private employer who has any employees doing work in a workplace in Tennessee. It requires these employers to provide employment and a place of employment that are free from recognized, serious hazards, and to comply with TOSHA standards and regulations (Sections 50-3-104 and 50-3-105 of the TOSH Act). By regulation, TOSHA does not cover individuals whom, in their own residences, employ persons for the purpose of performing domestic household tasks.

TOSHA respects the privacy of the home and has never conducted inspections of home offices. While respecting the privacy of the home, it should be kept in mind that certain types of work at home could be dangerous/hazardous. Examples of such work from TOSHA's past inspections include: assembly of electronics; casting lead head jigs for fishing lures; use of unguarded crimping machines; and handling adhesives without protective gloves.

G. Policy for Home Offices:

1. TOSHA will not conduct inspections of employees' home offices. TOSHA will not hold employers liable for employees' home offices, and does not expect employers to inspect the home offices of their employees.
2. If TOSHA receives a complaint about a home office, the complainant will be advised of TOSHA's policy. If an employee makes a specific request, TOSHA may informally let employers know of complaints about home office conditions, but will not follow-up with the employer or employee.

H. Policy for Other Home-Based Worksites:

TOSHA will initially handle all complaints of other home-based worksites, such as home manufacturing operations by telephone, telefax and/or other written communication as outlined in TOSHA INSTRUCTION CPL 2.115 CH-1 dated June 28,1999 except as follows:

1. If the employee (complainant) disagrees with the decision to conduct an investigation as described in this section, the complainant will be advised to submit a signed complaint in order for an inspection to be conducted (see CPL 2.115 CH-1 sections F & H).
2. TOSHA will conduct inspections of other home-based worksites, such as home manufacturing operations, when TOSHA receives a complaint or referral that indicates that an imminent danger hazard exists or if there is a report of a work-related fatality or catastrophe.
3. In both H.1 and H.2 above, the scope of the inspection in an employee's home will be limited to the employee's work activities. The TOSH Act does not apply to an employee's house or furnishings. Employers are responsible in home worksites for hazards caused by materials, equipment, or work processes which the employer provides or requires to be used in an employee's home.
4. The employer will be represented in all inspections of any home based worksite.

I. Other Requirements:

Employers who are required, because of their size or industry classification, by the TOSH Act to keep records of work-related injuries and illnesses, will continue to be responsible for keeping such records, regardless of whether the injuries occur in the factory, in a home office, or elsewhere, as long as they are work-related, and meet the recordability criteria of Chapter 0800-1-3 Occupational Safety and Health Record-Keeping and Reporting.

Other than clarifying the policy on inspections and procedures concerning home-based worksites, this instruction does not alter or change employers' obligations to employees.