



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Burton Snowboards
COUNTRY: China
ASSESSMENT DATE: 09/03/20
ASSESSOR: Openview
PRODUCTS: Equipment
NUMBER OF WORKERS: 70

Summary of Code Violations

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

FLA Code Element	Number of Violations
Compensation	1
Hours of Work	4
Employment Relationship	4
Health, Safety, and Environment	8
Nondiscrimination	2

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory signs three-year employment contracts with workers. However, the factory does not sign open-ended employment contracts with a total of 31 eligible workers after two consecutive fixed-term employment contracts. [ER.10.1]

Local Law or Code Requirement

The China Labor Contract Law, Article 14. FLA Workplace Code (Employment Relationship Benchmark ER.10)

Recommendations for Immediate Action

1. Sign open-ended employment contracts with all eligible workers after two consecutive fixed-term employment contacts.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. There are total 66 workers including two retired but re-recruited workers in the factory. The factory provides five types of social insurances to all 64 eligible workers. However, the contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to pension, unemployment, work-related injury, medical and maternity insurances based on local minimum requirement of CNY 3,368 (USD 492.8) per month, which is not in line with legal requirement of contribution based on workers'

average monthly wage of the previous year. About 95% of workers' average monthly wages of previous year were ranging from CNY 3,369 (USD 493) to CNY 7,035 (USD 1,029), higher than local minimum contribution base. [C.10.1]

2. The factory contributes to the Housing Provident Fund for all 64 eligible workers. However, the contribution base is not in line with legal requirement. The factory contributes to the Housing Provident Fund based on CNY 2,020 (USD 295) per month, which is not in line with legal requirement of contribution based on workers' average monthly wage of previous year. About 98% of workers' average monthly wages of previous year were ranging from CNY 2,100 (USD 307) to CNY 7,035 (USD 1,029), higher than current contribution base. [ER.22.2]

3. According to the compensation procedure and worker and management interviews, the factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6, HOW.11]

4. The factory pays final payout on the regular payment date on 10th of the following month, which is not in line with legal requirement that final payout should be paid within two working days upon contract termination. [ER.18]

Local Law or Code Requirement

Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 16; The Implementation Measures for Employee Paid Annual Leave, Article 4; The Regulation of Wage Payment in Jiangsu Province, Article 19. FLA Workplace Code (Compensation Benchmarks C.6 and C.10; Employment Relationship Benchmarks ER.18 and ER.22; Hours of Work Benchmark HOW.11)

Recommendations for Immediate Action

1. Contribute to social insurance based on worker's average monthly wage of the previous year.
2. Contribute to the Housing Provident Fund based on worker's average monthly wage of previous year.
3. Calculate annual leave based on worker's cumulative working experience (working age).
4. Pay final payout within two working days upon contract termination.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Overtime hours exceed the legal limit of 3 overtime hours per day and 36 overtime hours per month. Time records for the period from August 2019 to August 2020 indicate that the daily overtime for about 80% of workers exceeded 3 hours and up to 4 hours in about 35% of workdays during the reviewed period, and monthly overtime for 95% of workers exceeded 36 hours in all reviewed months, with a maximum of 158 overtime hours in May 2020. [HOW.1.1, HOW.8]
2. The factory does not always provide workers with one day off for every seven-day work period. Time records for the period from August 2019 to August 2020 indicate that about 90% of workers worked 7 to 22 consecutive days for once to three times per month in all reviewed months, with a maximum of 22 consecutive days from December 2 to December 23, 2019. [HOW.2]
3. The factory sets the production plan based on 66 hours per week (a total of 6 days per week with 3 overtime hours on each workday and 11 overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work 26 overtime hours per week. [ER.24]
4. Total working hours regularly exceed 60 hours in a week. Time records for the period from August 2019 to August 2020 indicate that the weekly working hours for about 90% of workers exceeded 60 in 3 to 4 weeks per month in all reviewed months, with a maximum of 83 hours in the week of May 18 to May 24, 2020. [HOW.1.3]

Local Law or Code Requirement

The China Labor Law, Article 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1, HOW.2 and HOW.8)

Recommendations for Immediate Action

1. Ensure overtime hours do not exceed the legal limit of 3 hours per day and 36 hours per month.
2. Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.
3. Set the production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
4. Ensure total working hours do not exceed 60 in a week.

5. Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:

- 1) Implement FLA Principles of Fair Labor and Responsible Sourcing and
- 2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:
 - a. How to provide better order forecasts to the factories;
 - b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
 - c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
 - d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);
 - e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;
 - f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. [FOA.2, FOA.10]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.10)

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not obtain the report on the inspection and acceptance of completed construction project for Building #1 (one floor), which was constructed in 2003 with a building area of 1,400 square meters. [HSE.4]
The chemical and accessories storage area in Building #1 covers an area of 250 square meters with one emergency exit, which is in line with legal requirement. However, the factory has not installed an exit sign or emergency light on the emergency exit. [HSE.5.1]
2. The factory does not provide secondary containers for 2 out of 14 tanks of epoxy resin in the chemical and accessories storage area of Building #1. [HSE.9.1]
3. The factory is using the partial area (around 250 square meters) of Building #1 (one floor) as their chemical and accessories storage area and the rest area is occupied by their client. The factory does not arrange joint fire evacuation drill with another client that is located in the same building. [HSE.5.1]
4. The factory does not install sufficient fire alarms to cover all workshops on all floors. The factory installs one fire alarm in each of the two stairwells on the 2nd floor of Building #2, which has three floors with a floor area of 1,900 square meters and a building area of 5,800 square meters. In addition, both fire alarms have no backup battery. [HSE.5.1]
5. The factory does not install visual fire alarm in the finishing workshop with exposure to high level of noise (above 90dB). [HSE.5.1]

Local Law or Code Requirement

The Construction Law of the People's Republic of China, Article 61; The Code of Design on Building Fire Protection and Prevention, Article 10.1.6, Article 10.3.1 and Article 10.3.5; The Code for design of automatic fire alarm system, Article 6.5.1 and Article 6.5.2. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.4, HSE.5 and HSE.9)

Recommendations for Immediate Action

1. Obtain the report on the inspection and acceptance of completed construction project for all buildings.
2. Install the exit sign and emergency light on all emergency exits.
3. Provide secondary containers for all chemicals as per legal requirement.
4. Arrange joint fire evacuation drill with other occupants that are located in the same building.
5. Install at least one fire alarm on each floor with backup battery.
6. Install visual fire alarm in areas with exposure to high level of noise.