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INSURANCE

NEWSALERT

American Rescue Plan Act

Stimulus Plan Expands Business Assistance

THE \$1.9 TRILLION American Rescue Plan Act (ARPA) that President Biden signed into law on March 11 contains a number of provisions intended to help small businesses and other organizations hurt by the pandemic.

Foremost, it includes additional Paycheck Protection Program (PPP) loans to struggling businesses, and a number of special grants to companies in industries that have been especially hard hit, including restaurants, movie theaters, concert spaces and museums.

The measure also includes provisions extending a number of tax credits to employers affected by the pandemic, in order to make it easier for people laid off during the health emergency to access COBRA coverage after they lose their jobs and their health coverage.

ARPA opens up a new opportunity for businesses that have been hurt by the pandemic to access financial aid to keep their doors open and stay viable. Many of the programs build on ones introduced earlier in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and extended by the Consolidated Appropriations Act of 2021 (CAA).

PPP extended

The law authorizes another \$7.25 billion for the Paycheck Protection Program, which offers forgivable loans to small firms and other organizations that have been hit by the pandemic.

These loans are forgivable if 60% of the funds are used on payroll and the rest pays for mortgage interest, rent, utilities, personal protective equipment or certain other business expenses.

While the legislation set the deadline to apply for March 31, the deadline was extended until June 30 after Congress passed supplemental legislation.

Other assistance

There are a number of other provisions of the new law aimed at providing financial aid:

- \$10 billion for state governments to help leverage private capital and make low-interest loans and other investments to help their small businesses recover.
- \$15 billion to the Economic Injury Disaster Loan grants program to be given to small businesses in underserved areas, especially minority-owned enterprises.
- \$29 billion for financial relief grants to restaurants. The maximum grant size will be \$5 million for restaurants and \$10 million for restaurant groups. The Small Business Administration will administer these grants.
- \$15 billion will be added to the Shuttered Venue Operators Grants program, which was launched by the CARES Act. More funds will be made available to museums, theaters, concert and other venues that had to shut down due to COVID-19-induced restrictions. This program has not yet launched.

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Cyber Insurance

As Attacks and Costs Mount, Rates Climb Higher

CYBER INSURANCE rates are going to increase dramatically in 2021, driven by more frequent and more severe insured losses, according to a recent industry study.

The report by global insurance firm Aon plc predicted that rates would jump by 20% to 50% this year due to two main factors:

1. Cyber attacks are becoming more frequent

While publicly disclosed data breach/privacy incidents are actually occurring less often, ransomware attacks are exploding in frequency.

Ransomware incident rates rose 486% from the first quarter of 2018 to the fourth quarter of 2020. The comparable rate for data breach incidents fell 57% during the same period. The incident rates for the two types of events combined rose 300% over the trailing two years.

2. The costs of these attacks are growing

The average dollar loss increased in every quarter of 2020. Ransomware attacks were particularly severe – many of them resulted in eight-figure losses. Others may grow to that level as business interruption losses are adjusted and lawsuits against insured organizations proceed.

The combination of more frequent and more costly losses is a recipe for higher rates.

Cyber insurance rates continued increasing in 2020, with rises of between 6% and 16% in the last four months of the year.

In January 2021, most of the top 12 cyber insurance companies told Aon they were planning more drastic rate hikes. Nearly 60% reported that they would be seeking rate increases of 30% or more during the second quarter. None of them expected increases less than 10%.

New underwriting criteria

When insurers evaluate cyber insurance applicants, they will be particularly concerned with the organization's overall cyber risk profile, its cyber governance and access control practices, and its network and data security. Prior loss history will be less important because the frequency of attacks is growing so quickly.

Some insurers may also cap how much they will pay for ransomware losses, or even exclude them entirely. They may also increase the waiting periods before coverage begins to apply. ❖

WHAT BUSINESSES CAN DO

To improve your chances of getting more favorable pricing and coverage, the report recommends that you focus on:

- Reducing the risk of cyber losses.
- Measures to keep data private.
- Building an internal culture of cyber security.
- Preparing for ransomware attacks and disaster recovery planning.
- How your contracts and insurance will respond to a supply chain security breach.
- Understanding primary and excess coverage terms and communicating primary terms to excess insurers.



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Employee Retention Credit Extended Until Year's End

Tax credits

Originally enacted under the CARES Act and CAA, the Employee Retention Credit (ERC) lets certain employers take advantage of a tax credit for qualified wages paid to employees.

The CARES Act capped the ERC at \$5,000 per employee for 2020. The CAA, passed in late 2020, expanded the ERC to apply to qualified wages made between Jan. 1 and June 30 this year. It also increased the maximum amount of the credit to \$7,000 per employee per quarter.

The new stimulus law extends the ERC through the end of this year. That means that eligible small firms can take a tax credit of up to \$28,000 per employee for 2021.

Who is eligible: Businesses that were either fully or partially

suspended as a result of COVID-19-related government orders that restricted their ability to operate and generate sales. Also, any business that has gross receipts that are less than 80% of gross receipts for the same calendar quarter in 2019.

ARPA also makes eligible for the tax credit any start-up businesses that also suffered revenue losses as a result of the pandemic.

In addition, ARPA extends through September the availability of paid leave credits to small and midsize businesses that offer paid leave to employees who may take leave due to illness, quarantine or caregiving due to the pandemic and any closure orders.

Employers that offer paid leave to workers who are sick or in quarantine can take dollar-for-dollar tax credits equal to wages of up to \$5,000. ❖

Vaccinated Staff Should Still Wear Masks, Distance



OSHA RECENTLY updated its COVID-19 safety guidance to recommend that employees who have been vaccinated should continue wearing face masks, social distance and comply with any other COVID-19 safety protocols while on the job.

That means that the same workplace protocols that apply to unvaccinated employees will apply to those who have received their vaccines as long as the pandemic continues, OSHA notes in an update to its COVID-19 workplace safety page.

The only difference is that if a vaccinated employee is exposed to COVID-19 they are not required to quarantine, but they have to meet the following criteria:

- The employee is fully vaccinated. That's defined as after two weeks have passed since their second dose of a two-dose vaccine like Pfizer's and Moderna's vaccines, or after the dose of a single-inoculation vaccine like Johnson & Johnson's.
- The exposure occurred within three months following receipt of the last dose in the series; and
- The worker has had no symptoms since being exposed.

"Workers who are vaccinated must continue to follow protective measures, such as wearing a face covering and remaining physically distant, because at this time, there is no evidence that COVID-19 vaccines prevent transmission of the virus from person-to-person," OSHA writes on its website.

It added that the Centers for Disease Control has said that more needs to be understood about how the vaccines work and if people who have been vaccinated can spread the disease to others. So far, studies on this issue have been inconclusive.

OSHA further states that the COVID-19 safety protocols should be kept in place until the pandemic has reached its end and after positive guidance from the CDC.

Providing vaccines to your workers

OSHA also recommends following CDC guidelines and making COVID-19 vaccine available at no cost to all of your eligible employees.

Employers can be instrumental in getting their employees vaccinated by providing information and training on the efficacy and safety of vaccines.

While there are some legal issues concerning employers requiring workers to get vaccinated, the CDC does recommend that employers consider offering free, on-site COVID-19 vaccination at their business locations.

But if you are considering going this route, it's best to first contact your state's health department to receive guidance on how to make it happen.

For businesses that can't offer vaccinations on-site, employers should encourage their workers to seek COVID-19 vaccination in their community and provide them with information about where they can get a vaccine. ❖

CDC VACCINE ADVICE FOR EMPLOYERS

- Be flexible in your human resources policies. Establish policies that allow employees to take paid leave to seek COVID-19 vaccination in the community. Support transportation to off-site vaccination clinics.
- Use promotional posters and flyers to advertise locations offering COVID-19 vaccination in the community. Display posters about vaccination in break rooms, cafeterias and other high-traffic areas.
- Post articles in company communications (e.g., newsletters, intranet, e-mails, portals) about the importance of COVID-19 vaccination and where to get the vaccine in the community.



Tailgate Meetings

As Construction Rebounds, Double Down on Safety

AS THE economy regains its footing, employment in the construction industry is surging as pent-up demand means that more homes are being built at a brisk pace. But this growth in housing comes at a price for those working in the industry: a significant jump in construction workplace deaths and injuries.

In 2019 for example, 1,061 construction workers died on the job, up 5% from 2018 and the sector's highest number of worker deaths since 2007. A new report suggests that the trend will continue as human resources shortages force construction firms to promote relatively inexperienced workers into supervisory roles. This means construction firms have to double down on safety, and that starts with sound tailgate meetings and buy-in from management.

You can use this handy list of meeting topics to plan your tailgate meeting agenda for the year. This list is by no means exhaustive, but it does cover the major areas that you should refresh your workers on annually.

- **Workplace hazards** – Hazard recognition is a skill that all workers need to stay safe on the worksite. This training should cover common types of hazards found in the construction industry, how to assess their severity and the different control methods employed to prevent incidents from occurring.
- **Managing worksite conditions and equipment** – The dangers vary at each worksite depending on the job as well as the weather. As a result, hazards associated with housekeeping, slips, trips, falls and materials need to be recognized. Training should include general tool safety guidelines, including rotating machinery, air, electric and power tools.
- **Fall protection** – Falls are a serious hazard in all construction. This training should focus on basic fall protection equipment used in construction, worker and employer responsibilities for working at heights, and common fall protection inspection points.
- **Ladder and scaffold safety** – Some of the most common tools used on construction sites today include ladders and scaffolds, which pose their own fall hazards. They can also be major sources of injuries due to falls and improper use. Training should focus on the types of ladders and scaffolds that will be used in a job, correct set-up, usage and contraction, along with a description of scaffold tags.
- **Defensive driving** – Whether your employees are driving to work, from work, or operating a piece of equipment on the worksite, it is important to practice safe, defensive driving techniques. Your training should focus on state driving laws, how to drive defensively and typical causes of motor vehicle accidents.
- **Powered mobile equipment** – Powered mobile equipment is used for many purposes in the construction industry. It is important to operate and work safely near this equipment. Training should cover all of the powered mobile equipment you'll have on the job, how to conduct a pre-job walk-around of a machine and how to work safely around the various pieces of equipment.
- **Personal protective equipment** – Although it is your last line of defense in the prevention of injury, personal protective equipment is a regular part of the clothing worn on most construction jobs. Training should focus on the role of PPE on the job, basic PPE found in the construction industry, and when specialized PPE is necessary.
- **Excavating and trenching** – Any excavation has the potential to harm workers who are not properly informed of the risks associated with digging and how to prevent dangerous incidents. Training should explain hazards, different soil types and their properties, and important safety precautions that should be part of all digging operations.
- **Personal physical care and conduct** – Working in the construction industry requires substantial physical health and stamina. In this module, ways to care for your body to prevent injuries and the impacts of drugs and alcohol on your ability to work safely should be examined, as well as professional behavior and conduct on the worksite.
- **Hazard communications** – The construction industry uses various chemicals and materials that could be harmful to your health if not handled correctly. Training should focus on the Globally Harmonized System of hazardous materials labeling and the function of Material Safety Data Sheets, so that employees know how to protect themselves from dangerous hazardous materials.
- **Environmental safety** – Protecting the environment is everyone's responsibility. Training should introduce workers to the typical types of pollutants found in the construction industry, what to do in case of an accidental release of hazardous materials, and general transportation of dangerous goods requirements.
- **Emergency response** – When an accident does occur, your employees, supervisors and managers should know your emergency response plan. Training should cover key response plan elements, how to access first aid on the worksite, and basic fire-fighting techniques. ❖