



Workers' Comp

Law Reduces Ownership Requirement for Exemption

A NEW STATE law introduces new rules that define what constitutes an owner or officer who is exempt from having to carry workers' comp coverage.

The legislation amends current law that limits the number of individuals in an organization who could claim an exemption from workers' comp coverage, including:

- An officer or member of the board of directors of a quasi-public or private corporation who owns at least 15% of the issued and outstanding stock and who waives their rights under workers' comp laws, and
- An individual who is a general partner of a partnership or a managing member of a limited liability company who waives their rights under workers' comp laws.

If one or more of your officers and owners are claiming an exemption, you should expect to receive correspondence from your insurance company notifying you of the changes.

The new law takes effect in two stages:

Effective Jan. 1

The first part of the law addresses waivers executed by individuals prior to Jan. 1, 2017, and accepted by the carrier before the end of 2017. These waivers will remain in effect until they are withdrawn by the named individual.

Effective July 1

The minimum ownership percentage is reduced from the current 15% to 10% for the purposes of qualifying for a workers' comp waiver.

Under the new law, an officer or member of the board of directors may elect to waive coverage if either:

1. He or she owns at least 10% of the issued and outstanding stock, or
2. He or she owns at least 1% of the issued and outstanding stock of the corporation if his or her parent, grandparent, sibling, spouse or child owns at least 10% of the issued and outstanding stock *and is covered by a health insurance policy or health care service plan.* Under the new law, the waiver must be

signed by the person requesting to be excluded from coverage.

Sole shareholders of a private corporation

Sole shareholders of private corporations can waive coverage.

General partners or LLC managing members

A general partner of a partnership or a managing member of a limited liability company can waive coverage.

Professional corporations

An owner of a professional corporation who is a practitioner rendering professional services for which the professional corporation is organized, may waive coverage.

Cooperative corporations

Officers and board members of cooperative corporations can opt out of coverage by signing a waiver.

They must have health care coverage and a disability insurance policy. ❖



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Sexual Harassment

#MeToo Movement to Spawn Wave of Lawsuits

AFTER REVELATIONS of sexual misconduct by a number of high-power executives, media personalities and politicians last year spawned the #MeToo movement, defense lawyers are predicting a record number of sexual harassment lawsuits will be filed against employers in the coming year.

The #MeToo movement has emboldened women who have been sexually harassed, abused or worse by a work superior or co-worker to come out and tell their stories. Any employer whose workers were subjected to this kind of behavior is at risk of being sued, regardless of whether or not the employer knew about the incident.

The costs of sexual harassment lawsuits can debilitate, if not sink a small business, considering the high settlement costs, attorney fees – and even awards if the cases go to trial.

As an employer you should already have anti-harassment policies in place, including a safe way for an employee to report harassment without fear of losing their job. In the #MeToo era, you should revisit your policy and consider new training for all employees, supervisors and management. Companies must be ready to quickly address sexual harassment, assault and discrimination in the workplace as it is uncovered.

What's happening

A movement that started out in high-profile, public industries and in politics will soon spread, affecting everyday American businesses.

The #MeToo movement has exposed unacceptable predatory behavior in the workplace. It has also shown that there is no room for tolerance of sexual harassment.

There are different types of sexual harassment and as an employer you should be aware of the differences.

Title VII of the Civil Rights Act of 1964 is the federal law which prohibits employers from discriminating against employees on the basis of sex, race, color, national origin, or religion. Sexual harassment is a form of sex discrimination in violation of Title VII.

Sexual harassment can include one or more of the following:

- Unwelcome sexual advances
- Requests for sexual favors
- Visual, verbal or physical conduct that is sexual in nature.

There are two main types of sexual harassment:

- Quid pro quo, when usually a superior will make sexual advances or requests as a condition of employment or promotion. This could include a manager threatening termination unless the employee performs sexual favors, or a manager promising a promotion in exchange for sex.
- A fellow employee or superior that may engage in unwanted physical contact, making vulgar or obscene comments, making sexual requests, or in the worst case, rape.

Companies must address sexual harassment through anti-harassment policies and sexual harassment prevention training with the goal of ending harassment rather than just attempting to avoid litigation. The training should be continuous and engaging.

Employers must create and communicate sexual harassment policies and promptly investigate all sexual harassment claims thoroughly.

Businesses should also have a fair and confidential system in place for reporting sexual harassment without risk of retaliation. All complaints should be taken seriously and investigated thoroughly.

Punishments must only be meted out after the investigation, and the punishment should fit the infraction, including firing if need be.

The final backstop: Insurance

Employers need to protect themselves financially from liability, but also create a safe work environment.

Employment practices liability insurance (EPLI) will cover many of the costs associated with a sexual harassment action by an employee, including:

- Legal costs
- Settlements
- Jury awards

In addition, in order to provide a legal defense and pay damages, some EPLI policies may include resources to help business owners create policies and procedures, training and awareness campaigns that may reduce the potential for future claims. ❖

Want to know more about EPLI? Call Us: 866.211.2123





Insurance Issue

Half of Business Floors Too Slick, Pose Slip Risk: Study

DESPITE MANY businesses taking measures to reduce the chances of one of the most common workplace injuries – slip and fall incidents – nearly half of workplace floors fail to meet safety criteria, according to a new study.

While well-intentioned employers may take steps to reduce slip and fall injuries by ensuring that walking surfaces don't have standing water on them or are free of clutter, many overlook flooring selections and ongoing maintenance on slip resistance, the study by CNA Financial Corp. suggests.

When testing workplace floors in a number of industries, the insurance company found that 50% failed to produce "a dynamic coefficient of friction level above the minimum threshold of 0.42" set by the American National Standards Institute, according to a press release.

What you can do

You should start by evaluating the flooring you have in your various work areas and ensure that the flooring material and design suit the tasks in each workspace. You should also consider what (if any) contaminants, chemicals or other substances workers are using in the area that may increase the risks of slips and falls.

When choosing flooring products...

- Consider expected use conditions and expected users.
- Consider using materials that grip when both wet and dry.
- Select materials for the tasks and typical wear.
- Check the cleaning requirements of the flooring.
- Ensure floor heights and surfaces are consistent. ❖

Industries with most incidents

- Retail
- Restaurants
- Real estate

Where most slips and falls occur

- Walking and working surfaces (mainly entryway flooring): 40%
- Parking lot surfaces: 33%
- Sidewalks leading to business entrances: 27%
- Interior office floors: less than 1%

What to look for

- Flooring that is uneven or in poor condition, including:
 - Loose or curling matting
 - Torn carpet
 - Uneven or broken concrete
 - Chipped or cracked tiles.
- Anti-slip paint or tape that is worn, smooth or damaged.
- Areas of slipperiness under normal conditions. Look out for:
 - Spots of flooring that are more worn or contaminated than other areas of the same flooring, such as high-traffic areas, or in front of a deep fryer.
 - Surfaces that may look non-slip but become slippery when wet or otherwise contaminated. Conversely, some surfaces may look slippery or shiny, but are not slippery when contaminated.
- Flooring that may have been originally chosen for a different purpose to how it is being used now and may no longer be suitable.



OSHA Form 300A

It's that time again to post your OSHA Form 300A on your employee bulletin board.

The form is used to show how many workplace injuries your employees sustained during the year, aside from simple first aid incidents.

The form must be posted from Feb. 1 to April 30.





Protecting Your Belongings

Ten Tips for Preventing Laptop, Mobile Device Theft

FOR MANY people, the theft or loss of even a single laptop computer, cell phone or tablet can be devastating – unless you take some common-sense measures to mitigate the damage ahead of time.

It's not just the cost of the lost device itself. If there is confidential, proprietary or personally identifiable information on the device – or readily accessible through it – you could risk seeing your identity stolen.

Here are some tips to help prevent mobile device theft.

1. Keep it close. Don't let strangers "borrow" your phone or computer to look up directions or send an e-mail. There are cases of criminals bolting as soon as they have possession of the device. In other cases, they may surreptitiously install malware or spyware on your device that could compromise your sensitive information.

2. Don't attract attention. Don't use computer cases that look too much like computer cases. These attract the attention of thieves.

3. Use device-tracking services. Many laptop manufacturers include optional tracing services. Alternatively, you can install or attach an external tracking device to your computer. It may not prevent theft, but you may be able to quickly recover the computer, or force the criminal to get rid of it prematurely, limiting the damage they cause. Computrace's LoJack for Laptops, one popular solution, takes advantage of GPS technology and will give you a precise location of a missing device.

4. Maintain situational awareness. Don't flaunt your brand new mobile device by using it prominently and visibly in public. According to the Federal Communications Commission, 55% of all larcenies in New York City involve smartphone theft, as do 46% of all robberies.

5. Install an irremovable tag. This includes a STOP Security Plate. These make laptops and other mobile devices difficult for criminals to resell or pawn and may help deter theft. The STOP Security Plate, impossible to remove, also instructs anyone who finds your computer to call a 1-800 number to report the device stolen. Once they do, the vendor will call you with instructions on how to recover your device.

6. Be smart at airport security checkpoints. Don't put your laptop on the conveyor belt until you are very next in line. Otherwise your laptop may make it through security before you do – and be vulnerable to theft on the other side of the checkpoint.

7. Cable your laptop. Several vendors make a lightweight but very strong cable that you can use to secure your laptop to a table you are working on in public – making it nearly impossible for thieves to run away with your computer. Most thieves, seeing the cable, will move on to an easier target.

8. Store it when traveling. Store the laptop in your hotel room safe, if possible. If there is no safe and you can't bring your laptop with you, lock your suitcase and store it there.

9. No strangers. Never ask a stranger to watch your computer in public. Always pack it back up to go use the restroom, get another drink, or anything else.

10. Never leave your laptop in the car. Your car insurance may cover the cost of a stolen laptop (minus a deductible). It does not cover the cost of lost productivity or data loss mitigation. ❖

