Leaderschoice INSURANCE SERVICES

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NEWSALERT

Vicarious Liability

You're Responsible for Employees Driving on the Job

MANY BUSINESS owners don't think twice when asking a worker to run to the office supply store, to the bank or run another errand for the company while on the clock.

But as soon as that employee enters their personal vehicle on a trip for your business, you automatically become vicariously liable for their actions.

Think it's not a big deal? There have been cases when employers have been found liable and ordered to pay up to $25 million for crashes involving employees using their cell phones while driving, according to the National Safety Council.

That means if your employee is in an accident and injures a third party, damages another car or injures themselves, your firm could be held liable.

For injuries to only your employee, your workers' compensation insurance would handle the costs, but for injuries to others and third party property, you are ultimately liable since they were carrying out duties for your firm.

The employee's auto insurance will be primary, but the problem arises when the coverage is insufficient. The employer can then be sued by the third party.

And once a third party knows there is an employer behind the person who hit them, that often encourages them to sue, seeking even more damages than they normally would.

With that in mind, you should do all you can to reduce your exposure by writing a policy for your driving employees (see box on right).

Beside having a driving policy in place, you can also make sure to hire employees who are safe drivers by checking their driving records during the hiring process.

Also, make sure that your management is on board with the policy.

That means that managers should avoid texting or calling employees while they are driving on company duty.

That would clash with your policy on barring cell-phone use while driving.

See 'Endorsement' on page 2

Elements of a Driving Policy

Consider including the following in the policy:

- Expectations you have for driving staff.
- No talking on a cell phone or using any functions like apps and texting.
- Avoid other distractions by barring other activities while driving, like eating and drinking.
- Train workers in safe vehicle operations.
- Make sure that any employees who drive for you are properly licensed.
- Require them to take breaks on longer trips.
- Check staff driving records periodically.
- Spell out that they must buy personal auto insurance with certain minimum limits. The insurance policy should not include a business exclusion.

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Workplace Safety

Cal/OSHA Maximum Penalties Nearly Doubled

NEW PENALTIES for workplace safety infractions in California took effect on Sept. 14, nearly doubling the maximum fines that Cal/OSHA can levy on employers who are cited.

California was required to increase its penalties in response to penalty hikes implemented by Fed-OSHA last year.

All new fines have a cost-of-living component that will entail annual increases starting Jan. 1, 2018.

Meanwhile, the maximum penalty for serious violations remains unchanged at $25,000.

At the same time, the fixed statutory penalty of $2,000 for serious tower crane and carcinogen-use violations has been repealed and replaced by a new maximum of $25,000. ❖

NEW FINE STRUCTURE

The new penalties, which apply to all citations issued on or after Sept. 14, are as follows:

Citation	New Maximum	Old Maximum
General and regulatory violations, including posting and recordkeeping violations	$12,471	$7,000
Willful and repeat violations (maximum)	$124,709	$70,000
Willful and repeat violations (minimum)	$8,908	$5,000
Serious violations	$25,000	$25,000

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You Need an Endorsement for Staff Who Drive Personal Cars

Insurance

Finally, you should make sure that you have proper insurance in place in case calamity strikes. And unfortunately, some employees will inevitably be slack in following even the best laid out policies.

Commercial auto will cover all of your workers who drive company vehicles for collisions, but it won't cover employees if they are driving their own vehicles while on the job. Such vehicles are considered non-owned autos because they are not owned by the named insured.

Employees are not insureds while driving non-owned autos, even if they are using the vehicles on company business.

But if you do have workers who use their personal vehicles for work, like sales reps, you can purchase an endorsement for your commercial auto policy: Entitled Employees as Insureds. This endorsement covers workers who drive their personal vehicles on behalf of their employer.

But it provides excess coverage only, meaning that the employee's personal auto policy will apply first if the worker is sued after an accident involving their personal auto. The endorsement would apply only if the employee's personal policy limits are breached. ❖

Cost Containment

Insurers, Businesses Use More Tech to Manage Risk

TRADITIONALLY, INSURANCE has relied on information asymmetry: The insurance carrier has had the advantage of access to reams of actuarial data which it uses to price policies, while the customer has had the advantage of more intimate knowledge of his or her own particular situation.

But new developments in mobile technology, blockchain development and risk management are changing the equation.

Innovative insurance technology – or insurtech – companies are developing apps for mobile phones, tablets and desktops that are putting more information in the hands of the customer, and providing them tools to help them reduce their premiums.

Autos and transportation

Telematics is a technology that allows third parties such as employers, insurance companies and parents of drivers to remotely monitor driving habits. With mobile tracking technology, computer monitors can detect excessive speed and total miles driven, including whether miles are in rural areas or high-traffic urban areas.

The technology has reduced both claims and premiums as insurers are able to more accurately price insurance.

One insurance carrier has an app that “knows” when tired truck drivers are on the road late at night. An algorithm sends a message to the driver offering to buy them a cup of coffee at the next truck stop – and a bar code to pay for it.

Industrial safety

One prominent example of how insurtech is transforming risk management in large industrial settings is iAuditor, from SafetyCulture. This helps facilitate safety management practices in a variety of industries.

It collects data from thousands of companies’ safety inspections and makes it easy for businesses to create their own safety inspection checklist, incorporating the best practices and lessons learned from other companies into their own safety program management.

Safety managers can download a customized safety checklist to mobile devices company-wide.

Supervisors conduct safety inspections using the digital checklist on their phones, and data is uploaded directly to the cloud where the company can access it.

Users are reporting 23% fewer safety incidents as a result of implementing the technology.

Another insurtech operator, ClearRisk, has created a simple risk-pricing calculator, making it easy for risk managers to calculate the optimum trade-off between deductibles and premiums, thus helping companies pay the lowest price possible for risk transferal.

Health and wellness

Other applications allow employers to monitor employees’ exercise and sleep habits (in the aggregate), in order to better manage their exposure to health costs and health insurance premiums.

This tech takes employee wellness programs to the next level, enabling employers to monitor how often and how far employees walk or run, their weight (when they log it in), and how much sleep they get.

The bottom line

Ultimately, insurtech and improved data transparency should help businesses in nearly every industry reduce insurance costs, lower risk exposures and/or improve worker safety – and that’s a huge benefit for business owners and workers alike. ❖

Liability Coverage

Why Your Business Needs an Umbrella Policy

Imagine these real-life scenarios:

- *You own an apartment building with a porch that does not have railings. One of your tenants falls from it, and recovery from her injuries requires months of physical rehabilitation. A court awards her $3 million.*
- *The poorly maintained brakes on an asphalt truck fail. The truck strikes the back of the car in front of it, causing a woman riding in the car to suffer serious hand injuries. The truck's owner settles with her for $1.5 million.*
- *A man dies after an air conditioner falls on him. The building owner settles with his estate for $3.9 million.*
- *A child collides with an uprooted cable and loses an eye. The owner of the premises settles with her mother for $2.6 million.*

INCIDENTS LIKE these real-life events are rare, but they are always possible. They can drive companies out of business or property owners into bankruptcy if they don't have sufficient financial protection.

That is why every business and property owner should consider purchasing an umbrella liability insurance policy.

An umbrella policy covers a business after it has used up its "primary" commercial general liability (CGL) or business automobile liability insurance.

For example, suppose the owner of the asphalt truck had an auto liability insurance policy that pays up to $1 million for bodily injuries and property damage in a single accident. After the insurer pays out the full amount, the truck's owner still owes $500,000. The umbrella would cover the remainder.

Sometimes, multiple claims in one policy term can use up a business's primary insurance. CGL insurance normally provides one amount of coverage (such as $1 million) for a single occurrence, and another (such as $2 million) for all losses that occur during the policy's term.

Suppose the owner of the property with the uprooted cable had $2 million of coverage for all losses, and its insurer had already paid $1.5 million before the accident with the child. The primary insurer would pay only $500,000. If the premises owner had an umbrella policy, the umbrella insurer would pay the rest, up to the amount of insurance the business had bought.

Extra cover costs proportionately less

Umbrellas provide $1 million or more of coverage. The cost of each additional $1 million in coverage is a fraction of the cost for the first $1 million.

For example, the additional cost of buying $2 million instead of $1 million might be 40% of the cost of $1 million; the cost of going from $2 million to $3 million might be 30% of the cost of $1 million; and so on.

An umbrella may also cover some losses the primary policies do not. In those situations, the business will be required to pay a stated portion of the loss (such as $10,000) before the insurer will pay.

Any business may have a catastrophic unforeseen accident. An umbrella policy will help it survive at a relatively low cost. It is a wise purchase for any business or property owner. ❖