

Industrial Commission



Workers Compensation

Understanding Your Workers'
Compensation Obligations

DISCLAIMER

The content in this presentation regarding your rights and obligations under the North Carolina Workers' Compensation Act is for general information only. The information provided does not apply to any specific case, is not legal advice and should not be relied upon. If you have any questions about your situation or any specific case, you should contact an attorney for his or her legal advice. Any questions about proper insurance coverage should be directed to an insurance agent or attorney. Please note that the information provided may change as a result of legislative action, court decisions or rules adopted or amended under the North Carolina Administrative Procedures Act.

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Employer's Requirements to Carry Workers' Comp Insurance

- North Carolina law requires that all businesses which regularly employ three or more employees obtain workers' compensation insurance or qualify as self-insured employers.

Exceptions to the Three Employee Rule

- Presence of Radiation
 - Businesses with one employee are required to have workers' compensation insurance
- Sawmills and Logging operators
 - Less than ten (10) employees
 - Saws and logs less than 60 days in any six consecutive months
 - Principal business is unrelated to sawmilling or logging
- Federal Government
 - Federal workers' compensation is handled through the U.S. Department of Labor

Agricultural Employers

- Not required to carry workers' compensation insurance unless
 - Ten (10) or more full-time, non-seasonal agricultural workers
 - Regularly employed by the same employer
- Sellers of Agricultural Products
 - Does not apply to persons, firms or corporations
 - Engaged in selling agricultural products for the producers
 - On commission or for other compensation, paid by the producers
 - Product has to be prepared for sale by the producer

Who is an employee?

- Every person engaged in employment
 - Appointments, contract of hire, apprenticeships
 - Express or implied, oral or written
- Includes people lawfully or unlawfully employed
 - Minors
 - Undocumented workers
- Includes temporary, part-time, and seasonal workers

Who is excluded as an employee?

- Casual Employees
 - Individuals employed casually who do not perform “work pertaining to the regular course of defendant’s business”
- Domestic Servants
 - Directly employed by the household
- Certain railroad employees

Business Structure

- Sole proprietors, LLC members and partners are not counted automatically as an employee; may elect to be included.
- Corporate Officers
 - May elect to be excluded from existing coverage
 - Still counted in determining whether a business has three or more employees

Principal Contractors & Sub Contractors

- Any principal contractor or intermediate contractor cannot be held responsible for workers compensation liabilities of a subcontractor if:
 - Subcontractor has workers compensation insurance in effect on the date of injury regardless of whether a certificate of insurance is timely obtained
 - Or
 - The subcontractor's workers compensation insurance expired prior to the date of injury provided that a certificate of insurance was obtained (a) at any point to subletting and (b) the principal was unaware of the expiration or cancellation
- This applies to principal contractors, intermediate contractors, or subcontractors who sublet any contract for the performance of any work.

Trucking

- Any principal contractor, intermediate contractor, or subcontractor
 - Irrespective of whether it regularly employs three or more employees
 - Contracts with an individual who operates a truck, tractor, or truck tractor trailer licensed by the US DOT and the individual has not obtained workers' compensation insurance for himself personally and for his employees and subcontractors, then...
 - The principal contractor shall be liable as an employer for work-related injuries of the independent contractor, his employees and subcontractors

Trucking: Exceptions

- Will not be liable as an employer if
 - Contract is with an independent contractor who is an individual licensed by US DOT and the independent contractor personally is operating the vehicle pursuant to that license
- A trucking company may obtain a blanket policy to cover all independent contractors, its employees and subcontractors
 - May include in contract an agreement for the independent contractor to reimburse the cost of covering that independent contractor under workers' compensation insurance

Where do I get Workers Comp Coverage?

- Conventional and open market.
 - Insurance policy
 - Contact an independent insurance agent and request his/her assistance in providing your business with coverage.
- Assigned risk pool
 - Option for employers without a sufficient history or have been unable to obtain insurance in the open market due to risk
 - Administered by the N.C. Rate Bureau. Ask insurance agent for information or call **(919) 582-1056** .

Obtaining Coverage (continued)

- Self-insured
 - Must qualify to become self-insured. Assessment of your financial solvency
 - Contact the Department of Insurance **(800) 546-5664** (in NC) or **(919) 807-6750** (outside of North Carolina).
- Self-insured fund.
 - Each business contributes financially to the self-insurance pool
 - To receive a list of the self-insured funds in North Carolina, contact the Department of Insurance at **(800) 546-5664** (in NC) or **(919) 807-6750** (outside of North Carolina).

How much does it cost?

- The cost varies depending upon your market of coverage.
- There are rates for each specific type or classification of employment.
- These rates are applied on a percentage basis.
- The percentage is applied to per one hundred (\$100.00) dollars of payroll.
- You may contact your insurance agent to receive these rates and/or the N.C. Rate Bureau at **(919) 582-1056**.

If I don't have it?

- If you fail to carry workers' compensation insurance, you may:
 - 1) Face stiff financial civil penalties;
 - Business—minimum of \$50.00 per day up to \$100 per day depending upon number of employees
 - Individual—assessed cost of claim as penalty
 - 2) Be charged with a misdemeanor;
 - 3) Be charged with a felony;
 - 4) Be imprisoned.
- **Contact your lawyer or insurance agent if you are unsure of your responsibilities as an employer.**

You can not waive the requirements of the North Carolina Workers' Compensation Act



FRAUD

The N.C. Industrial Commission Fraud Section investigates:

- Employers who operate as non-insured employers in violation of the North Carolina Workers' Compensation Act
- Suspected criminal violations of the Workers' Compensation Act
 - Employees suspected of committing workers' compensation fraud.
 - Employers, insurers, health care providers, and attorneys suspected of criminal violation of the Workers' Compensation Act

Contact Information

- Fraud Section
 - 1-800-891-4895
 - fraudcomplaints@ic.nc.gov
- North Carolina Industrial commission
 - 919-807-2501 or 1-800-688-8349
 - Information Specialists (Option 3)
- Visit our website
 - www.ic.nc.gov

Questions?

919-807-2501 or 1-800-688-8349
(option 3)

infospec@ic.nc.gov