NFP
Potomac Basin Group

August Newsletter

Employee Benefits

Penalties Increase for Employers Violating Certain Federal Labor Laws

Employers that do not comply with certain requirements under a number of federal labor laws will face increased fines beginning with civil penalties assessed after August 1, 2016 (whose associated violations occurred after November 2, 2015).

Key Penalty Increases
Penalty increases announced by the U.S. Department of Labor that may be of particular interest include:

- Repeated or willful violations of the Fair Labor Standards Act (FLSA) minimum wage or overtime pay requirements will be subject to a penalty of up to $1,894 per violation (formerly $1,100);

- Willful violations of the Family and Medical Leave Act (FMLA) posting requirement will be subject to a penalty not to exceed $163 for each separate offense (formerly $110) (note: covered employers must post this general notice even if no employees are eligible for FMLA leave);

- Failure to provide employees with a Children's Health Insurance Program (CHIP) notice will be subject to a penalty of up to $110 per day per violation (formerly $100);
- Failure to provide a Summary of Benefits and Coverage (SBC) will be subject to a penalty of up to $1,087 per failure (formerly $1,000);

- Failure or refusal to file a Form 5500 will be subject to a penalty of up to $2,063 per day (formerly $1,100); and

- Violations of the Occupational Safety and Health Administration's posting requirement will be subject to a maximum penalty of $12,471 for each violation (formerly $7,000).

Our **Compliance by Company Size chart** features a summary of key federal labor laws that may apply to a company based on its number of employees.

*Source: **HR360**

Proposed Changes to Form 5500 Include Elimination of Filing Exemption for Small Group Health Plans

The U.S. Department of Labor and other federal agencies have released two proposed rules revising the Form 5500 and Form 5500-SF Annual Returns/Reports that are required to be filed by certain employee benefit plans.

Among other changes, the proposed rules would:

- Introduce basic reporting requirements for all group health plans that have fewer than 100 participants and are covered by Title I of the Employee Retirement Income Security Act (ERISA)--most of which are currently exempt from reporting requirements;

- Create a new schedule (Schedule J), by which applicable group health plans would satisfy certain ERISA reporting requirements added by the Affordable Care Act (ACA); and

- Revise the Schedule C reporting requirements to more closely track the information that plan service providers are required to disclose to plan fiduciaries.

The target for implementing the proposed revisions is the Plan Year 2019 Form 5500 Series Annual Returns/Reports, though some form changes may be made earlier or later.

You may review our **Benefits Notices Calendar** for additional notice and disclosure requirements that apply to group health plans under federal law.

*Source: **HR360**

Best Practices for Preventing Workplace Harassment

A new report from the U.S. Equal Employment Opportunity Commission (EEOC) highlights best practices for employers to prevent and respond to workplace harassment.

Harassment Defined
Harassment is a form of **employment discrimination** that violates Title VII of the Civil Rights Act (Title VII), the Americans with Disabilities Act (ADA), and the Age Discrimination in Employment Act (ADEA). The EEOC defines harassment as unwelcome conduct that is based on race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), national origin, age (40 or older), disability, or genetic information.

Harassment becomes unlawful where enduring the offensive conduct becomes a condition of continued employment, or the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Best Practices
According to the **EEOC report**, employers should:

- Foster an organizational culture in which harassment is not tolerated;

- Adopt and maintain a comprehensive anti-harassment policy (which prohibits harassment based on any protected characteristic, and which includes social media considerations) and establish procedures consistent with the best practices outlined in the report;

- Ensure that any such anti-harassment policy--especially details about how to complain of harassment and how to report observed harassment--is frequently communicated to employees, in a variety of forms and methods;

- Ensure that where harassment is found to have occurred, discipline is prompt and proportionate to the severity of the infraction. Discipline should be consistent, and not give (or create the appearance of) undue favor to any particular employee; and

- Dedicate sufficient resources to training middle-management and first-line supervisors on how to respond effectively to harassment that they observe, that is reported to them, or of which they have knowledge or information--even before such harassment reaches a legally-actionable level.

Note: Employers may have specific obligations regarding harassment under state or local laws (e.g., training or notice requirements and/or additional protected classes).

More information regarding employer responsibilities under federal nondiscrimination laws may be found in our section on **Discrimination**.

*Source: **HR360**

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5 Guidelines for Protecting Employees from Heat Stress

With a heat wave spreading across much of the country, it is critical that employers recognize the hazards of working in hot environments and take steps to reduce the risk to workers. Consider the following actions that can help protect employees:

1. Provide heat stress training. Topics you may wish to address include worker risk, prevention, symptoms (including the importance of workers monitoring themselves and coworkers), treatment, and personal protective equipment.

2. Schedule hot jobs for the cooler part of the day. The best way to prevent heat illness is to make the work environment cooler. Monitor weather reports daily and reschedule jobs with high heat exposure to cooler times of the day. When possible, routine maintenance and repair projects should be scheduled for the cooler seasons of the year.

3. Provide rest periods with water breaks. Provide workers with plenty of cool water in convenient, visible locations in shade or air conditioning that are close to the work area. Avoid alcohol and drinks with large amounts of caffeine or sugar.

4. Monitor workers who are at risk of heat stress. Workers are at an increased risk of heat stress from personal protective equipment, when the outside temperature exceeds 70°F, or while working at high energy levels. Workers should be monitored by establishing a routine to periodically check them for signs and symptoms of overexposure.

5. Acclimatize workers by exposing them for progressively longer periods to hot work environments. Allow workers to get used to hot environments by gradually increasing exposure over at least a 5-day work period. The U.S. Occupational Safety and Health Administration (OSHA) suggests beginning with 50% of the normal workload and time spent in the hot environment, and then gradually building up to 100% by the fifth day.

Under federal law, employers have a **legal obligation** to provide a workplace free of heat-related hazards that are likely to cause death or serious bodily harm. Additionally, certain states may have their own heat-illness prevention standards.

Resources for Employers and Workers
OSHA's Heat Illness Website provides information and resources on heat illness for workers and employers, including how to prevent it, what to do in the case of an emergency, educational materials, and a curriculum to be used for workplace training. The Centers for Disease Control and Prevention also has a page dedicated to providing information on heat stress (including symptoms and first aid), along with fact sheets and other resources for protecting employees.

Our section on **Safety & Wellness** includes additional tips for maintaining a safe and healthy workplace.

*Source: **HR360**

Employers May Continue to File ACA Information Returns (Forms 1094 & 1095)

While the deadline to electronically file Affordable Care Act (ACA) information returns with the IRS passed on June 30, 2016, the ACA Information Returns (AIR) system used to electronically file those returns, as well as the ability to complete required system testing, remains up and running.

Rejected, 'Accepted with Errors,' and Late Filings
Employers whose filings were rejected by the **AIR system** have 60 days from the date of rejection to submit a replacement and have the rejected filing treated as timely filed. In addition, employers whose filings received an "Accepted with Errors" message may continue to submit corrections after June 30, 2016.

Employers unable to submit all required ACA information returns by June 30, 2016 should still file their returns after the deadline. Filers that missed the June 30, 2016 deadline will generally not be assessed late filing penalties if the reporting entity has made legitimate efforts to register with the AIR system and to file its information returns, and it continues to make such efforts and completes the process as soon as possible. In addition, consistent with existing information reporting rules, filers that are assessed penalties may still meet the criteria for a **reasonable cause waiver**.

Check out our section on **Information Reporting** for more on the ACA employer information reporting requirements.

*Source: **HR360**

Business Insurance

Insuring Against the Loss of Key Personnel

Special Business Coverages

Many businesses—especially small businesses with fewer employees—depend on a single person or a few key people for their success. If a key person becomes unable to work or dies, the business might lose valuable accounts or be temporarily unable to operate, resulting in lost revenue.

The loss of an important employee can hurt the morale of a business, but the financial impact can be mitigated if a business purchases key person insurance. This type of coverage can enable a business to continue paying its bills and fund the search for a new employee. In unfortunate instances where a business cannot survive without the key employee, the funds from key person insurance can be used to pay severance to employees, distribute funds to investors and close the business in an orderly manner.

Key person insurance is usually owned by the business, which pays the premiums. This coverage is also a requirement of most banks and lending institutions when applying for financing or credit.
Who Qualifies as a “Key Person”?
There are no hard-and-fast rules for identifying key persons in your business. Generally, anyone who directly contributes to a company’s bottom line or is fundamental to its operations might be considered a key person. Examples include:

-C-Suite Executives—such as a CEO or COO.
-Leading sales personnel.
-Heads of product development.
-Engineers or other difficult-to-replace personnel.

Types of Key Person Insurance
Key person insurance comes in the following two forms:

Key Person Life Insurance—This type of coverage differs from regular life insurance in that it specifically covers individuals in a business who are crucial to company operations. It provides the business with an infusion of cash if an insured key employee dies, regardless of cause or place of death. These funds can help compensate for revenue lost as a result of the death, as well as pay off debts, buy out surviving shareholders’ interest from heirs and finance the costs of a new employee search or training programs. Key person life insurance can be purchased as term insurance lasting for a defined period of time or as extended universal or whole life coverage. The amount of coverage is based on a key person’s income, overall business revenue and the portion of revenue attributable to the key person.
Key Person Disability Insurance—This policy will provide funds to a business if an insured key employee becomes disabled and unable to work—partially or entirely. While standard disability insurance covers an employee’s lost salary and medical expenses, a key person disability policy provides funding to a business to make up for lost revenue, the cost of hiring a new employee and other related expenses.

Like other disability and life insurance policies, the cost of premiums for key person insurance depends on the age, health and role of the key employee, as well as the risks the employee takes in their personal life—for example, does the CEO fly her own plane?
“First-to-Die” Key Person Coverage
A cost-effective option for buying key person insurance is for a group of executives to join together on a “first-to-die” policy that insures just the first of the group who passes away. Once the policy is used to cover the loss of the first person to die, another member of the group becomes eligible for coverage. Thus, the key person insurance continues for the new members of the leadership team, but premiums reflect the fact that only one life is being covered at a time.

This type of insurance can be a useful tool when it comes to succession planning for your business—and having a succession plan is crucial to ensure the successful transfer of your company or business interests.

Your insurance professional can provide guidance on options and costs of individual and first-to-die key person coverage.

*Source: Insurance Information Institute, Inc.

Does My Business Need Flood Insurance?

Business Insurance Q&A

Natural disasters can be devastating to businesses. While damage caused by some types of natural events—such as lightning or wind—will usually be covered by commercial property insurance, you need a special policy if you want protection from flood damage. The Q&A below will help you understand this type of coverage and determine if your business needs it.

Q. Does my commercial property insurance include flood coverage?

A. No. Damage from flooding, including flooding generated by hurricane-generated storm surge, typically is not covered under a standard commercial policy, including a Commercial Package Policy (CPP) or a Business Owners Policy (BOP). Flood insurance is available from the federal government’s National Flood Insurance Program (NFIP).

Q. What does flood insurance cover?

A. Flood insurance covers damage to your building and contents caused by flood. This includes losses resulting from water overflowing rivers or streams, heavy or prolonged rain, storm surge, snow melt, blocked storm drainage systems, broken dams or levees, or other similar causes. To be considered a flood, waters must cover at least two acres or affect two properties. Generally if water comes from above—for instance from rain or melting snow overflowing gutters and leaking onto your inventory—you’ll be covered by your standard commercial property insurance.

Q. What isn’t covered by flood insurance?

A. Property outside your building generally will not be covered. For instance, landscaping and septic systems will not be covered. In addition, flood insurance will not cover damage to your business vehicles, but this can be included in the optional “comprehensive” portion of your business vehicle insurance. Financial losses caused by business interruption or loss of use of insured property are also not covered.

Q. Do I have to purchase flood insurance?

A. If your commercial property is located in a high-risk flood area and you have a mortgage from a federally regulated or insured lender, you are required to purchase a flood insurance policy.

Q. How do I determine my risk for flood damage?

A. Location is the most important factor for weighing your risk for flood damage. Is your business located in or near a flood zone? (Flood map search tools can be found online.) In what part of the building is your businesses equipment and inventory located? Anything housed on a lower floor, for instance, will be at greater risk.

Q. Where can I purchase flood insurance?

A. Flood insurance is available from the NFIP and some private insurers. However, NFIP coverage can only be purchased through an insurance professional; you cannot buy it directly from the federal government. To find a local insurance professional who is familiar with the National Flood Insurance Program, contact the NFIP at 888-379-9531 for an agent referral.

Q. How long does it take to get flood coverage?

A. Typically, there’s a 30-day waiting period from date of purchase before your policy goes into effect.

Q. Does my flood policy cover mold?

A. Damage from mold and/or mildew resulting from the after-effects of a flood is covered, but each case is evaluated on an individual basis. Mold/mildew conditions that existed prior to a flooding event are not covered, and after a flood, the policyholder is responsible for taking reasonable and appropriate mitigation actions to eliminate mold and mildew.

Q. How much flood coverage can I get?

A. Commercial flood insurance provides up to $500,000 of coverage for your building and up to $500,000 for its contents.

Q. What if I need more coverage?

A. You can purchase what’s called excess insurance coverage to rebuild properties valued above National Flood Insurance Program (NFIP) limits. Excess coverage includes protection against business interruption.

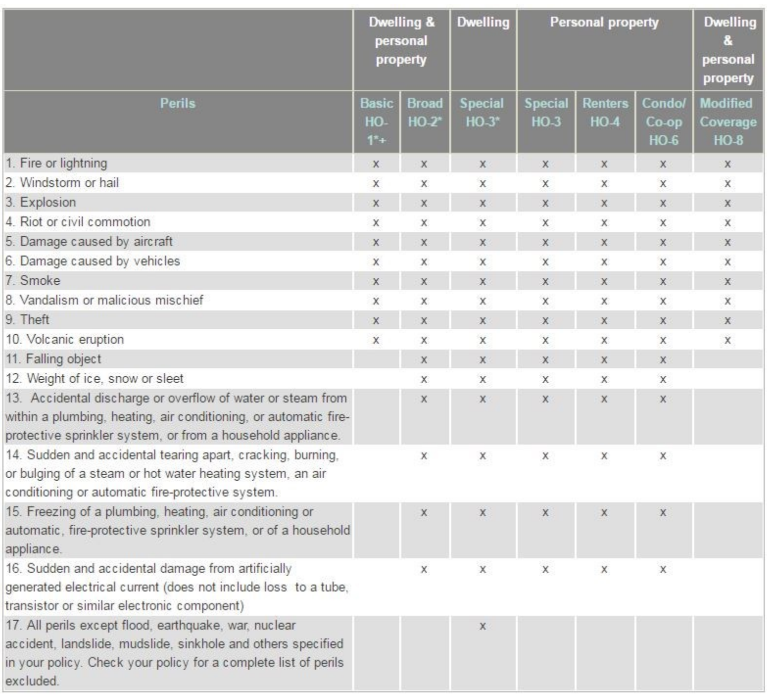
*Source: Insurance Information Institute, Inc.

Personal Insurance

Which Disasters Are Covered by Homeowners Insurance?

Standard homeowners policies generally cover a wide range of potential disasters, from tornadoes and windstorms, to fire and lightning strikes, to winter storm damage caused by weight of ice and snow. Most homeowners policies cover all the disasters listed below. Some policies provide coverage only for the first 10 listed. It is important to check check your insurance policy for the specific perils covered.

WHAT TYPE OF DISASTERS ARE COVERED?



	Dwelling & personal property		Dwelling	Personal property			Dwelling & personal property
Perils	Basic HO-1*+	Broad HO-2*	Special HO-3*	Special HO-3	Renters HO-4	Condo/ Co-op HO-6	Modified Coverage HO-8
1. Fire or lightning	x	x	x	x	x	x	x
2. Windstorm or hail	x	x	x	x	x	x	x
3. Explosion	x	x	x	x	x	x	x
4. Riot or civil commotion	x	x	x	x	x	x	x
5. Damage caused by aircraft	x	x	x	x	x	x	x
6. Damage caused by vehicles	x	x	x	x	x	x	x
7. Smoke	x	x	x	x	x	x	x
8. Vandalism or malicious mischief	x	x	x	x	x	x	x
9. Theft	x	x	x	x	x	x	x
10. Volcanic eruption	x	x	x	x	x	x	x
11. Falling object		x	x	x	x	x	
12. Weight of ice, snow or sleet		x	x	x	x	x	
13. Accidental discharge or overflow of water or steam from within a plumbing, heating, air conditioning, or automatic fire-protective sprinkler system, or from a household appliance.		x	x	x	x	x	
14. Sudden and accidental tearing apart, cracking, burning, or bulging of a steam or hot water heating system, an air conditioning or automatic fire-protective system.		x	x	x	x	x	
15. Freezing of a plumbing, heating, air conditioning or automatic, fire-protective sprinkler system, or of a household appliance.		x	x	x	x	x	
16. Sudden and accidental damage from artificially generated electrical current (does not include loss to a tube, transistor or similar electronic component)		x	x	x	x	x	
17. All perils except flood, earthquake, war, nuclear accident, landslide, mudslide, sinkhole and others specified in your policy. Check your policy for a complete list of perils excluded.			x				

* HO-1, HO-2 and HO-3 refer to standard Homeowners Policies.

+HO-1 has been discontinued in most states.

Disasters That Are Not Covered
1. Floods

Flood damage is excluded under standard homeowners and renters insurance policies. Flood coverage, however, is available in the form of a separate policy both from the National Flood Insurance Program - NFIP (888-379-9531) and from a few private insurers.

You can get replacement cost coverage for the structure of your home, but only actual cash value coverage is available for your possessions. There may also be limits on coverage for furniture and other possessions stored in your basement.

Flood insurance is available for renters as well as homeowners. You will need flood insurance if you live in a designated flood zone. But also consider buying it if your house could be flooded by melting snow, an overflowing creek or water running down a steep hill. Don’t wait until the evening news announces a flood season warning to buy a policy. There is a 30-day waiting period before federal flood coverage takes effect.

2. Earthquakes

Earthquake coverage can be a separate policy or an endorsement to your homeowners or renters policy. It available from most insurance companies. In California, it is also available from the California Earthquake Authority. In earthquake prone states like California, the policy comes with a high deductible.

3. Maintenance Damage

It is your responsibility to take reasonable precautions to protect your home from damage. Your insurance policy will not cover damage due to lack of maintenance, mold, termite infestation and infestation from other pests.

4. SEWER BACK-UP

Sewer backups or the inability of sump pumps to handle runoff water from major downpours are not covered under a typical homeowners insurance policy, nor are they covered by flood insurance. Those types of coverage must be purchased either as a separate product or as an endorsement to a homeowners policy.”

Sewer backup coverage is available from most insurers for a nominal cost—usually an additional annual premium of $40-$50.

Many homeowners may not realize that they are responsible for the maintenance and repair of their house or sewer lateral—the pipeline between the city sanitary sewer main, usually located in the street—and the building. The sewer lateral is owned and maintained by the property owner including any part that extends into the street or public right of way.

*Source: Insurance Information Institute, Inc.

Rental Car Insurance

Rental car

There are more options for renting a car than ever before. In the past, you simply selected a vehicle from one of the many brick-and-mortar car rental companies found at airports, train stations or other locations. Today, technology has made possible other alternatives, including peer-to-peer car services, which enable consumers to rent personally owned cars from others; and car sharing programs in which—for a monthly or annual fee—consumers can pick up a vehicle at a wide range of locations for periods ranging from minutes to days.

While these car rental options mean more choice for consumers, they mean more questions about insurance coverage. Fortunately, it is possible to be properly insured when renting a car without wasting money by purchasing duplicative coverage.

The insurance coverage offered by traditional car rental companies is fairly standardized. However, coverage varies widely amongst other types of car sharing programs. The most important step is to read the car rental/sharing agreement—most companies clearly state what is covered as well as the supplemental coverage that can be purchased.

Regardless of the rental car option, the I.I.I. suggests making two phone calls:

The first, to your insurance company, to find out how much coverage you currently have on your own car. In most cases, whatever coverage and deductibles you have on your own car would apply when you rent a car (providing you are using the rental car for recreation and not for business).

If you have dropped either collision or comprehensive on your own car as a way to reduce costs, you may not be covered if your rental car is stolen or damaged. Insurance rules vary by state, so it is best to check with your insurance professional for the specifics of your policy.
Check to see whether your insurance company pays for—or provides a rider for—administrative fees, loss of use or towing charges.
The second, to your credit card company. Insurance benefits offered by credit card companies differ depending on the company and/or the bank that issues the card, and the level of credit card used (a platinum card may offer more insurance coverage than a gold card). However, most credit card only provide limited coverage, such as covering the deductible if there is a claim.

To know exactly the type and amount of insurance that is included, call the toll-free number on the back of the credit card you will be using to rent the car. If you are depending on a credit card for insurance protection, ask the credit card company or bank to send you their coverage information in writing.
In most cases, credit card benefits are secondary to either your personal insurance policy or the insurance coverage offered by the rental car company.

Brick-and-Mortar Car Rental Insurance
Consumers renting from traditional car rental companies can generally choose from the following coverages (Note: insurance is state-regulated; the cost and coverage will vary from state to state.):

- **Loss Damage Waiver (LDW)** Also referred to as a collision damage waiver, an LDW is not technically an insurance product—it is designed to relieve or “waive” renters of financial responsibility if their rental car is damaged or stolen. In most cases, waivers also provide coverage for “loss of use,” in the event the rental car company charges for the time a damaged car cannot be used because it is being fixed. An LDW may also cover towing and administrative fees. The Loss Damage Waiver may become void if the accident was caused by speeding, driving on unpaved roads or driving while intoxicated. Comprehensive/collision auto coverage generally covers damage to a rental car. Keep in mind, however, that in most states diminished value is not covered by personal auto insurance policies.
- **Liability Insurance** By law, rental companies must provide the state required minimum amount of liability insurance coverage—generally this figure is low and does not provide much protection. (See State minimums here.)A standard auto insurance policy includes liability coverage. For additional protection, consider an umbrella liability policy. Non car-owners who are frequent renters can also purchase a non-owner liability policy, which not only provides liability protection when renting a car, but also when borrowing someone else’s car.
- **Personal Accident Insurance** This covers the driver and passengers for medical and ambulance bills for injuries caused in a car crash Health insurance or the personal injury protection (PIP) provided by your auto insurance will likely cover medical expenses.
- **Personal Effects Coverage** This provides insurance protection for the theft of items from a rental car.A homeowners or renters insurance policy includes off-premises theft coverage. If you frequently travel with expensive items such as jewelry, cameras, musical instruments or sports equipment, consider a personal articles floater to protect your valuables at home and while traveling.

Car Sharing and Peer-to-Peer Car Rental Insurance
The insurance offered by these companies is not standardized. It is therefore important to go to the company’s website to read the insurance coverage information carefully. If you have any questions, call the customer service number listed on the website. And contact your auto insurer if you feel you need more information to make an educated insurance coverage decision.

Car sharing programs like ZipCar, generally include insurance costs in the fee. However, if the car is involved in a collision or is stolen, the renter may be billed for a specific dollar amount that is stated in the membership agreement. For an additional cost, customers can purchase a “waiver” to avoid paying the accident fee. Car renters under the age 21 should read the insurance coverage carefully as many programs limit coverage for young drivers to the minimum state required amount of liability. Young renters can look into whether their parents’ auto insurance would cover them for the difference, or purchasing their own non-owner liability policy.

A number of web-based peer-to-peer rental services (e.g. RelayRides) offer both basic coverage and supplemental insurance. The supplemental insurance includes both coverage for damage to the car and liability protection, and provides a choice of coverage amounts and deductibles. Renters who do not purchase the additional insurance are required to sign an agreement stating that they declined the coverage.

*Source: Insurance Information Institute, Inc.