



SAFETY NEWS

A publication presented by the CRCA Health and Safety Committee

January 2006

On July 20, 2005, Governor Blagojevich signed HB 2137 amending the Illinois Workers' Compensation Act. Summaries of the legislation are available at www.cisco.org/wchours.htm.

Workers' Compensation Agreed Bill

BACKGROUND: A workers' compensation agreed bill has been negotiated by organized labor and business interests. The Illinois workers' compensation system was designed as a no-fault system to settle disputes in the unfortunate situation where a workplace injury occurs. Currently workers and employers lose money due to the occurrence of a workplace injury. The legislation will improve the delivery and level of benefits to those injured on the job and reduce the total amount paid by employers for the system. We urge you to support this compromise. The legislation achieves the following:

BENEFIT DELIVERY

Ensures prompt payment for medical providers who treat injured workers by allowing 1% interest per month after 60 days on unpaid medical bills.

Prohibits a medical provider from billing an injured worker for the balance of charges not paid by an insurance company while the workers' compensation claim is pending. Under this legislation, Illinois will become the last state in the nation to adopt a balanced billing prohibition.

Creates a 3rd Workers' Compensation Commission panel to expedite resolution of disputed claims and also expands and expedites emergency hearings to resolve cases within 180 days, which will allow injured workers to receive quicker treatment and an earlier return to work.

Simplifies procedures for introduction of injured workers certified medical records into evidence before the Workers' Compensation Commission, allowing for faster and less costly resolution of disputes.

Requires the Workers' Compensation Commission to certify vocational rehabilitation counselors who provide rehabilitation services to injured workers. Also defines maintenance and temporary partial disability benefits to encourage an earlier return to work.

Ensures the Rate Adjustment Fund is made solvent and phased-out over the next 10 years.

Enhances penalties, for the unreasonable delay of workers' compensation benefits, from \$10 per day to \$30 per day and from \$52,500 per claim to \$10,000 per claim and defines the Commission's authority in assessing penalties under Section 19(k).

Provides for timely and accurate collection of claims paid data by the State Division of Insurance to allow both business and labor to track worker compensation injuries and costs.

BENEFIT STRUCTURE

Increases the minimum benefit for a worker killed on the job to the greater of \$500,000 or 25 years (was approximately \$400,000 for 20 years).

Increases the burial benefits to \$8,000 for fatally injured workers from \$4,200.

Protects low-wage workers and ties the minimum temporary total disability (TTD) and permanent partial disability (PPD) rates to the Illinois Minimum Wage for a 40-hour week. These rates have not been increased for more than 20 years.

Sets the minimum rates for Amputations at 50% of the Statewide Average Weekly Wage (SAWW). Increases the number of weeks by 7 1/2% for loss of use of scheduled body parts and disfigurement.

Sets the maximum wage differential rate at 100% of the Statewide Average Weekly Wage (SAWW) for workers who qualify and extends the reopening of the claim to 60 months. *(continued on Page 4)*

MONTHLY SAFETY MEETINGS RECOMMENDED!

The following guidelines will help in setting up monthly safety meetings, to be conducted by a company designated safety instructor. Keep in mind such factors as the weather, training materials, use of translators and company specific topics. Remember: experience has shown that ideal safety meetings should last no more than one hour!

BEFORE THE MEETING

- Determine the year's subjects to cover and designate a safety instructor or crew foreman to facilitate

MEETING DAY

- Have all the supplies: AV equipment, pencils for taking tests, photocopies done, including Sign-In Sheet
- Brief the workers on the subjects to be covered
- Hand out the safety materials to be covered and review all material.
- Clearly presented topics to be covered; verify understanding. Watch the time. Save room for questions.
- Test and follow-up with a review of the correct answers
- End with a discussion of a company specific example such as a recent accident or near-miss

AFTER THE MEETING

- Grade the tests, record the scores on attendance sheet and issue certification cards if applicable
- Keep good records: some companies keep copies in the project file (if specifications require training) as well as in office files. Keeping a set of training files is important in the event you have to answer an OSHA complaint. It is helpful if the on-site foreman maintains a set of completed training quizzes as well.



LOOKING AT DUE DILIGENCE

Due Diligence is recognized as being important, especially when a company is defending itself in court. However, it has a greater significance with respect

to workplace safety. Organizations that are truly "diligent" make workplace safety a high priority.

What does Due Diligence mean in the court sense? It is an argument a company makes to defend itself in a court of law. An organization can argue that it has taken all necessary steps to prevent workplace accidents or injuries. To establish a Due Diligence program, an employer must follow all the following critical steps:

- Evaluate the risks, hazards, skills and training required and develop written policies, practices and procedures (PPP) to protect employees during the course of work.
- Train managers, supervisors and employees properly to carry out their work according to PPP as well as their requirements for complying with health and safety legislation.
- Activities to monitor, control and ensure compliance with the PPP are documented.
- Enforcement measures to comply with the PPP are documented and disciplinary procedures are used actively to handle safety infractions.
- Develop an accident investigation and reporting system which ensures all accidents and "near misses" are documented and reported to the employer. This will ensure that PPP are reviewed, revised and improved over time.

Clearly document the actions listed above and a history of improvements in the program is included which will show that an employer is and will be seen as being diligent.

Don't wait until after an injury to create a Due Diligence program as a defense; have a program in place. Many jurisdictions are moving towards higher fines for safety infractions. Additionally, public inquiry into high profile accidents has led to extending the criminal liability and sentencing of organizations and/or their directors and officers, to violations of health and safety standards.

Developing a Due Diligence program can be an effective method of preventing workplace injuries or accidents in the workplace as well as improving the workplace environment and bottom line. It is an additional way to look at integrating sound safety and loss control practices into your every day work.



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SAFE SOLUTIONS - INSURANCE ISSUES

“Am I going to be receiving huge increases in my insurance premiums again?” “Is the insurance industry getting any better?” These are questions roofing contractors are asking themselves this year. It’s typical for the insurance industry to go through cycles, but this “hard” market has been unusually lengthy. The roofing class of business has suffered more than many other classes, so roofing contractors welcome any premium relief.

In addition, the insurance marketplace, in general, has changed for roofing contractors. Many roofing contractors in certain states, such as New York, were forced to move from admitted carriers (an insurance company authorized to do business in a state) to excess and surplus lines carriers (insurers that are not licensed to conduct business in a particular state but are permitted because coverage is not available through licensed insurers.) Such insurers generally write coverage for riskier classes of business that admitted carriers don’t want to cover.

Insurance agents now have become familiar with the excess and surplus lines market, and industry experts advise the excess and surplus lines market will not be going away anytime soon though there has been somewhat of a shift for commercial contractors from excess and surplus lines insurers back to admitted carriers. Agents’ mentality has changed to accept the excess and surplus lines as a more common and viable market. Although admitted carriers always were the first choice and excess and surplus lines carriers were used as a one-time situation, there no longer is a significant distinction between placing a contractor with an admitted carrier vs. an excess and surplus lines carrier.

Statistics from the insurance industry and rating agencies indicate that, as a whole, insurance companies are showing improved underwriting and net income results as of 2002. 2001 seems to have been the worst year.

Industry observers also note liability premiums for contractors who conduct business on customers’ properties, such as roofing contractors, currently are showing a modest decline.

However, the news isn’t entirely rosy. A study published at the end of December 2004 by Standard & Poor’s Ratings Service shows that though there is growth in earned premiums and a continuing decline in loss frequency leading to improved profitability, expectations are for renewed competitive pressures on insurance companies in 2005.

Although there may be a decline in loss frequency, loss severity still exists for roofing contractors. Losses caused by falls continue to plague roofing contractors, and insurers still are seeing large workers’ compensation and general liability losses (more than \$1 million) because of falls in varied circumstances. Some examples include the following:

- A 21-year-old roofing worker fell through a skylight that did not have proper protection. He now is a paraplegic.
- A 38-year-old roofing worker fell off the edge of a roof while on a cell phone and pulling the hot tar paper machine. The monitor tried to warn him, but he did not hear and fell 12 feet (4 m) as the hot tar from the machine poured on him, causing catastrophic burns. He never will be able to return to work.
- A 52-year-old roofing worker fell 12 feet (4 m) through a hole (with no protection) to a concrete floor below. He is on long-term disability.

Not only do you have to maintain a successful safety program to keep premiums down, you also have to contend with the general insurance marketplace cycles. What can you do to win this battle?

With regard to fall protection:

- Continue to increase enforcement of safety programs
- Provide more attention to and emphasis on properly covering openings
- Make sure new and existing employees properly are trained and supervised

With regard to insurance:

- Become a stronger partner with your insurance agent and loss-control representative so they can provide ideas to help train employees
- Provide your agent with complete, consistent information at renewal time to give the best picture of your company to the underwriter
- Resolve to develop new safety and risk-management skills this year

The safety of roofing workers is important to the roofing industry, as well as the insurance industry. Employing better safety training and consistent practices can help create a more stable work environment for your company and employees. Take measures to prevent accidents on rooftops so fall-protection problems do not increase your already costly insurance premiums.

(Reprinted with permission of Leslie Kazmierowski, NRCA’s Insurance Programs Manager, March, 2005, *Professional Roofing*.)



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Address Correction Requested

CRCA Upcoming Events - Save the Dates!

Membership Meeting ~ March 14, May 9, 2006
CRCA Golf Outing ~ July 13, 2006

**Chicago Roofing Safety Partnership (CRSP)
Training Schedule**

April 19, 2006 - Record keeping
July 19, 2006 - Accident Investigation/Reporting
October 18, 2006 - Fire Safety
January 17, 2007 - Fall Protection

Workers' Compensation Agreed Bill - continued from Page 1

COST CONTAINMENT

Creates cost containment in workers' compensation by joining 44 other states in creating a medical fee schedule indexed to the Consumer Price Index (CPI). The fee schedule allows for providers treating injured workers to charge up to 90% of the 80* Percentile utilizing Illinois medical databases. This medical fee schedule will save Illinois businesses millions of dollars annually.

Helps contain workers' compensation costs for Illinois business owners, and the bill provides for Utilization Review of proposed or provided medical treatment to ensure the treatment is reasonable and necessary for injured workers using nationally recognized medical standards.

Reconstitutes the Workers' Compensation Advisory Board composed of business and labor interests to consult with the members of the Workers' Compensation Commission and make recommendations on appointments to the Commission.

FRAUD

Creates a workers' compensation fraud statute and investigation unit within the Division of Insurance of the Department of Financial and Professional Regulation to investigate charges of workers' compensation fraud including uninsured employers and allows for reporting of fraudulent claims by employees.

Enhances penalties and fines and creates a work-stop order for failure by employers to obtain workers' compensation insurance. Further provides civil liabilities for persons who knowingly and fraudulently attempt to obtain workers' compensation benefits.

PROPOSERS

Illinois AFL-CIO, Illinois Manufacturers' Association, Illinois Retail Merchants Association, National Federation of Independent Business, Illinois Chamber of Commerce, Illinois Construction Coalition, Chicagoland Chamber of Commerce, Associated Firefighters of Illinois, United Food and Commercial Workers, Illinois Petroleum Marketers Association, Illinois Association of Convenience Stores and Illinois Food Retailers Association

Advancing Multilingual Safety

Communicating and ensuring employee safety on both the job site and in the workplace is one of the most cost-effective ways for contractors to manage risks. For many construction businesses, hiring a skilled labor force means recruiting employees who may not speak English as a first language. This may cause a communication barrier when discussing safety precautions. A few simple steps to enhance your safety training can help you minimize your liability:

- Multilingual signage – have signage in both predominant languages warning of hazardous safety conditions
- Hire a pro – when training employees in appropriate safety procedures, hire a skilled translator. Employees may have adequate language skills to help non-English ones through day-to-day operations but may lack proper training to ensure instructions are translated properly.
- Always supplement training program with written procedures – to reinforce safety awareness procedures