

WORKERS' COMPENSATION

Non-compliance with Exclusion Rules May Cost You

IN THE last quarter of 2016 you should have received correspondence both from us and your insurance carrier if you have claimed any owners or officers as exempt from workers' compensation coverage on your policy.

The notification was in response to Assembly Bill 2883, which amended rules related to the exclusion of officers and members of boards of directors of private or quasi-public corporations, general partners of a partnership and managing

members of a limited liability company under a workers' compensation policy.

Starting Jan. 1, 2017 only officers or directors who own 15% or more of the stock of the corporation may be excluded from coverage.

Also, AB 2883 changes the method by which individuals may be excluded.

Individuals eligible for exclusion were required to have submitted no later than Dec. 31, 2016 a written waiver of workers' compensation benefits under penalty of

perjury certifying that they are a qualifying officer, director, general partner or managing member of an LLC.

If you claimed an exclusion, you would have received correspondence asking that you submit the required documentation by Jan. 1.

If you failed to comply, you will have rendered your exclusions invalid under the law and your policy will be subject to additional premium.

This rule applies to all in-force policies, even those not incepting on Jan. 1.

Insurance companies are still working on how and when they will charge the premium for individuals who no longer qualify to be excluded.

They will use the typical factors in determining the premium, like job duties, class code and salary.

If you have questions or concerns about these changes, do not hesitate to call us.

We are always here to help. ❖

Who Can and Can't Claim Exemption from Coverage

Eligible individuals

Corporations – Officers, directors (i.e. members of board of directors) must own 15% or more of the stock of the corporation.

Partnerships – Only general partners.

LLCs – Only managing members.

Ineligible individuals

Any individuals in the organization that are not included in the above requirements.

Individuals will be endorsed to the policy as of Jan. 1, 2017 and subject to officer minimum/maximum payrolls.



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RISK MANAGEMENT

Don't Let a Subcontractor Derail Your Safety Efforts

ONE OF the biggest challenges in running your own construction business is preventing contractors' and suppliers' safety practices from denting your own safety program.

While you may consider a number of factors when vetting a new contractor or vendor, one area that is often overlooked is their workplace safety practices.

This mistake can cost you dearly if one of their workers causes an incident at your worksite. In addition to an injury to one of your own employees, you could get a visit from an Occupational Safety and Health Administration inspector.

The National Safety Council's Campbell Institute recently conducted a study of organizations with excellent safety records to identify the best practices for contractor and vendor safety.

As part of the study it identified five steps during a contractor or vendor relationship when it's incumbent on a hiring company to evaluate the workplace safety habits of their business partners.

Prequalification

The institute recommends looking at more than just a company's experience modification rate. It says safety-minded firms assess contractors in multiple areas, such as their total recordable incident rate, fatality rate, days away from work for injured workers, restricted or transferred rate, and other OSHA recordables for the last three years.

Many firms also ask for environmental reports, written safety programs, permits, licenses, and continuous improvement programs.

Pre-job task and risk assessment

Before a contractor begins work, institute members recommend having a method for evaluating the risk of the work that is to be performed. Doing this can help you understand the scope of the work and give you a chance to put into place a new written

safety program if the risk is deemed high.

Most importantly, subcontractors should be required to adhere to the same safety standards as your company.

Training and orientation

You should require safety orientation and skills training for contractors before they step onto your jobsite. Also, if they are doing highly specific work, you should ensure they have any required permits or special training. Some of the jobs that fit into that category are confined-space entry, electrical work, hot work, energy control, forklifts, and elevated work.

Job monitoring

Many safety-minded companies monitor work with daily checklists, pre-shift tailgate or safety meetings and weekly walk-through inspections. Some of the companies surveyed for the study also require contract employees to submit a certain amount of safety observations and utilize mobile applications to report non-compliance or unsafe conditions.

Also, you need to keep up-to-date incident logs, as this is crucial to monitoring contractor safety during a project.

Post-job evaluation

Conduct a post-job evaluation. During this phase look at safety, customer service and the quality of the finished work, and use those factors in determining the contractor's eligibility for future contracts. ❖



EMERGING RISK

Ransomware Becomes Biggest Cyber Threat

RANSOMWARE IS turning out to be the biggest cyber threat facing companies in 2017 after attacks more than quadrupled in 2016 from the year prior, according to a new study.

If you are not familiar with this fast-evolving cyber threat, typically the perpetrators will essentially lock down your database and/or computer system and make it unusable, then demand that you pay a ransom to unlock the system.

The “Beazley Breach Insights Report January 2017” highlights a massive and sustained increase in ransomware attacks.

Another report, the “2017 SonicWall Annual Threat Report,” found that cyber criminals are shifting their attention from malware and other types of threat to ransomware – as evidenced by a significant decline in the former types of attack and a dramatic increase in the latter.

Here’s what SonicWall saw in 2016:

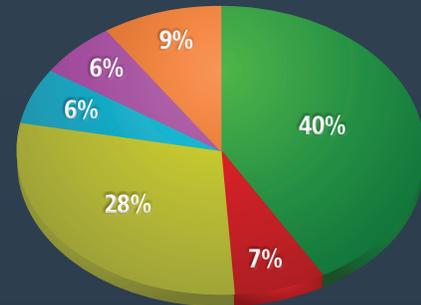
- Unique malware attacks fell to 60 million from 64 million in 2015, down 6.25%.
- Total malware attack attempts fell to 7.87 billion from 8.2 billion, down 4%.
- Ransomware attacks exploded to 638 million attempts in 2016 from 3.8 million in 2015, up a massive 166 times!

SonicWall’s report estimates that around \$209 million in ransoms was paid in the first quarter of 2016 alone.

“It would be inaccurate to say the threat landscape either diminished or expanded in 2016 – rather, it appears to have evolved and shifted,” said Bill Conner, president and CEO of SonicWall. “Cybersecurity is not a battle of attrition; it’s an arms race, and both sides are proving exceptionally capable and innovative.”

HOW RANSOMWARE INFILTRATES

- Hack or malware
- Insider
- Unintended disclosure
- Physical loss
- Portable device:
- Other/unknown



Source: Beazley Plc (numbers for financial services industry)

The unprecedented growth of ransomware was likely driven as well by easier access in the underground market, the low cost of conducting a ransomware attack, the ease of distributing it and the low risk of being caught or punished.

Ransomware is also growing in both sophistication and type of attack, and the hackers are proving to be inventive in how they can cripple your business enough to elicit the ransom.

When you are most vulnerable

There are some times that businesses are more susceptible than others in being targeted for an attack.

“Organizations appear to be particularly vulnerable to attacks during IT system freezes, at the end of financial quarters and during busy shopping periods,” the SonicWall report states. “Evolving ransomware variants enable hackers to methodically investigate a company’s system, selectively lock the most critical files, and demand higher ransoms to get the more valuable files unencrypted.”

Ransomware enters a company’s system in a variety of ways.

The most common method is when an employee clicks on a link in a bogus e-mail that opens the door to malicious code to start rifling through your systems. But more often, an employee unintentionally clicks on a link or sends information.

The types of attack will vary from industry to industry. ❖

HORROR STORIES

- Hollywood Presbyterian Medical Center in Los Angeles paid \$17,000 in bitcoin to regain access to its data in February 2016.
- Lansing Board of Water & Light paid ransomware attackers \$25,000 after they had paralyzed the company’s information system in April 2016.
- A four-star hotel in the Austrian Alps paid 1,500 euros (about \$1,600) in bitcoin after ransomware had locked up the computer running the hotel’s electronic key lock system, leaving guests unable to enter their rooms.



DISTRACTED DRIVING AWARENESS MONTH

Educate Staff about Safe Driving as Crashes Increase

AS ACCIDENTS skyrocket in part due to people using their smartphones while behind the wheel, April has been designated Distracted Driving Awareness Month – a great time for you as an employer to further promote safe driving among your staff.

Hammering home the importance of safe driving can keep your employees from causing serious damage or worse to a third party, and also help keep your insurance costs in check.

While you are likely to see an increase in your insurance rates even if you've had no accidents, you'll want to make sure that you continue focusing on safety to reduce the chances of future accidents.

Liberty Mutual Insurance Company recommends that employers who have driving employees implement a company-wide fleet safety program.

This should include:

- A questionnaire to weed out employees and job applicants with poor driving records,
- Requiring road tests for new driving employees,
- Training them in post-crash procedures and reporting,
- Carrying out continuing driver training and education,
- A policy on mobile devices by drivers,
- Having a list of sample safe-driving performance expectations, and
- Conducting regular vehicle maintenance and inspections. ❖

Elements of a Fleet Safety Program

Enforce company policy for use of vehicles: Use standard operating procedures like limiting personal use of company vehicles and monitoring who can use them.

Hire qualified drivers: Create a form for each applicant to document their driving history, employer references, medical certificates, and more.

Use a company fleet: There are extra risks involved when drivers use personal vehicles on the job.

Train your drivers: Some topics you can cover in your safety training include breakdowns, distracted driving, driving under the influence (DUI), the importance of resting when tired, negotiating heavy traffic conditions, and the dangers of speeding.

Regularly check driving records: Set a schedule for checking an employee's driving records to ferret out any deterioration in their experience, particularly if they've been cited for a DUI.

Review every accident: Your insurer will often be able to supply you with a vehicle accident form for your employees to fill out and follow in case of an accident, including witness names, circumstances, and the other driver's information, including insurance.

You should have contact information for the person in your office that they should contact in case of an accident.

Source: Liberty Mutual Insurance Company

CALIFORNIA COMMERCIAL AUTO

WHAT'S DRIVING LOSSES?



More traffic

Total miles driven increased 50% faster in California than in the rest of the country since the start of 2015.

More vehicles = higher frequency of accidents.



Distracted drivers

One-quarter of crashes involve drivers talking on phones or texting.



Escalating medical costs

Medical care costs are climbing more than 1.5 times faster than other costs.



More fatalities and other severe accidents

Accident rates per person and per mile of driving are rising in California.



Inexperienced or undesirable drivers

A shortage of skilled commercial drivers with good driving records = greater odds for accidents.



Rising auto repair costs

Record U.S. auto sales mean garages are often servicing newer cars with more expensive parts. Even minor repairs can cost big bucks.