

## RISK MANAGEMENT

# Preventing Warehouse and Factory Fires

**O**NE OF the biggest risks to warehouses and factories is fires, which can spread rapidly in these environments.

Facilities that are most at risk are those that have high ceilings, large footprints and hold large quantities of inventory that is stored close together.

If you don't have a fire prevention system in place, your inventory is at risk, as well as machinery and the building itself.

If you operate such a facility, you need to make sure that you reduce the risk of fires, and that you keep your inventory clear of any potential ignition sources.

To start, you need to understand what kind of ignition sources you have in your facility and how to identify hazards. Next, put together a fire protection plan.

Your plan will depend on the materials and inventory that you are storing and using.

For example, materials in corrugated cartons are much less combustible than plastic packaging. And inventory such as paint, oil and sawdust is extremely flammable.

### Shelving

One of the first orders of business is to evaluate your current shelving design.

One factor is the height of your storage. The higher you stack inventory, the greater the fire suppression challenge. Sprinkler systems that run along the ceiling have to reach not only the top layers of your inventory, but also the bottom layers.

One solution is to install in-rack sprinklers.

Another issue to consider is solid versus open shelving.

Solid shelving increases the fire risk because it creates an enclosed area where the fire can burn more easily.

Fires to products on open shelving are easier to douse and they don't spread as easily.

Also, the warehouse should be neat and items properly stored. Failing to arrange storage can increase your risk because:

- Crowded aisles may block fire exits and make it harder for people to escape, and
- Fires spread more easily in cramped warehouses.

### Dust danger

When accumulated dust particles are suspended in the air and contained in a confined space, all it takes is one small ignition source – like static electricity or metal-on-metal friction – to set off a chain reaction and a burst of fire.

When that happens it creates a rise in temperature and a rise in pressure.

That pressure will push outwards and if your building is not designed to contain that explosion and vent it safely, the result can be widespread damage.

On top of that, the initial explosion may dislodge additional dust on horizontal surfaces, which will add to the fire, putting at risk your entire facility. ❖

### DUST FIRE PREVENTION

Fires can be prevented via proper housekeeping and regular maintenance and upkeep of equipment, and the installation of vacuum-powered dust collectors on the outside of the warehouse.



### Storage tips

- Keep electrical switchgear and heating equipment clear of storage.
- Never let goods sit within 18 inches of lighting.
- Allow enough clearance between sprinkler heads and stored goods to make sure that your sprinkler system can effectively douse the area.
- Segregate hazardous and non-hazardous materials.



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## BUSINESS ENVIRONMENT

# Top Ten Laws, Regs You Need to Know

**A**S WITH every New Year, businesses are faced with a slew of new laws and regulations that will affect the way they operate. To help you stay on top of these new rules, we provide you with a list of the ones you should pay attention to the most.

### 1. New teeth to gender equal pay laws

A new state law adds teeth to the laws on gender pay equality.

Before SB 358, employees seeking to prove pay discrimination had to demonstrate that they are not paid at the same rate as someone of the opposite sex at the same establishment for “equal work.”

Under the new law, the requirement of “same establishment” has been deleted, and the employee need only show he or she is not being paid at the same rate for “substantially similar work.”

Substantially similar work means a composite of skill, effort and responsibility, performed under similar working conditions.

Employment law attorneys say the employer has the burden to affirmatively demonstrate the pay difference being complained about is based on any or all of these specific factors:

- A seniority system,
- A merit system,
- Basing earnings on production quality or quantity, or
- Another factor, such as education, training or experience.

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**WATCH YOUR STEP:** *Legal analysts say a new California law is likely to spawn a spate of litigation over equal pay between the sexes.*



## Run FMLA Concurrently with Workers' Comp

EMPLOYERS THAT run federal Family and Medical Leave Act benefits concurrently with workers' comp benefits have more leeway when employees are off work for an extended period of time, a court has ruled.

In the case of *Kings Aire Inc. vs. Jorge Melendez*, the Texas Supreme Court ruled that an employer who laid an employee off who had been out on workers' comp concurrently with FMLA, but had exceeded the 12 weeks away that is allowed by the law, was entitled to do so.

The case is a lesson on how to apply FMLA and workers' comp leave and protect your organization's interests.

### The case

Jorge Melendez filed a workers' comp claim after he injured his wrist in July 2009, cutting two tendons and the median nerve.

His employer informed him that while he was out on workers' comp, it would concurrently place him on FMLA leave, which allows eligible employees who cannot perform their jobs due to a serious health condition, to take up to 12 weeks of job-protected leave per year.

After 12 weeks, Melendez was unable to return to work and his employer sent him a termination letter. He sued, accusing the heating and air company of retaliating against him for filing the workers' comp claim.

A local court and appeals court sided with Melendez, but the Texas Supreme Court reversed those decisions, saying that the evidence did not support the allegation that he had been fired for the workers' comp claim. Instead, the employer had rightfully signed him up for FMLA leave and he was terminated under the firm's policy, which the employer had enforced equally in other circumstances.

### The lesson

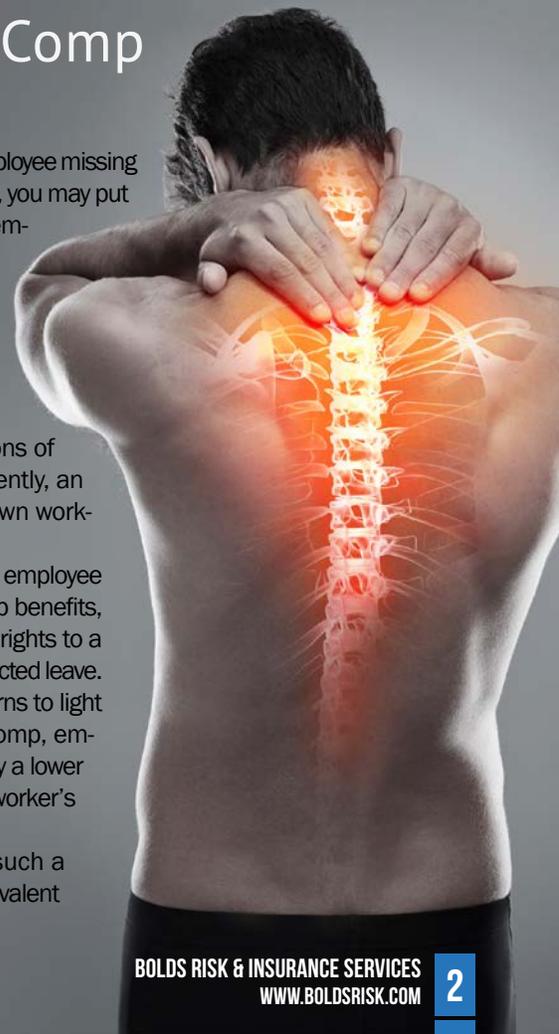
If you foresee an employee missing a long period from work, you may put them on FMLA leave, employment law attorneys say. If you do not, your employee will still have those 12 weeks to use for other potential FMLA-approved leaves.

Also, when provisions of both laws run concurrently, an employee may turn down workers' comp light duty.

If that happens, the employee may lose workers' comp benefits, but would retain FMLA rights to a continuation of job-protected leave.

If an employee returns to light duty under workers' comp, employers typically may pay a lower wage than that of the worker's normal position.

Under the FMLA, such a position must have equivalent pay and benefits. ❖



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# Affordable Care Act Reporting Mandate Starts This Year

## 2. Minimum wage increase

On Jan. 1, the state minimum wage increased to \$10 an hour, the last of two incremental increases since legislation was passed in 2013. The first came on July 1, 2014, which moved the rate up to \$9 an hour, where it has been until now.

## 3. Employer mandate part II

The Affordable Care Act reprieve for business with 50 to 99 full-time or full-time equivalent employees has ended.

Employers of this size are this year required to offer insurance to at least 95% of their full-time employees and dependents up to age 26, or pay a penalty.

For employers who don't provide coverage, the fine is \$2,000 per full-time employee (minus the first 30 full-time employees).

Companies with 100 or more full-time employees were required to cover their workers, starting in 2015.

## 4. Health coverage reporting

Starting in 2016, employers with 50 or more full-time or full-time equivalent employees are required to make additional filings with the IRS, as well as supply their staff with forms.

Applicable large employers (with 50 or more full-time and full-time equivalent employees in the preceding calendar year) will use Form 1094-C and Form 1095-C to satisfy reporting requirements.

If filed on paper, these forms must mailed no later than June 30. If filing is done electronically, the due date is May 31.

You must provide Form 1095-C to your employees by March 30.

## 5. Leeway to avoid frivolous lawsuits

AB 1506 gives employers 33 days to fix technical violations on an itemized wage statement before an employee can pursue civil litigation under the Private Attorneys General Act.

The California Chamber of Commerce championed the bill, which took effect on Oct. 2, 2015, saying it will greatly reduce frivolous litigation over an issue for which "injury" is hard to prove.

## 6. Family leave expanded a little

A law has expanded the right of employees to take protected time off from work when searching for a school or childcare provider.

The law requires firms with 25 or more employees to allow an employee to use eight hours in a calendar month, with a total of 40 hours in a calendar year, to find a school or a licensed childcare provider and to enroll or re-enroll a child, as well as time off to address childcare provider or school emergencies.

## 7. Inappropriate use of E-Verify

Effective Jan. 1, employers are barred from using the E-Verify system to check the work eligibility status of an existing employee or an applicant who has not received an offer of employment, as required by federal law, or as a condition of receiving federal funds.

## 8. Stiffer workplace safety penalties

Federal OSHA fines will increase for the first time in 25 years, with fines almost doubling from current levels.

The Federal Civil Penalties Inflation Adjustment Act of 1990 exempted OSHA from increasing its penalties to account for inflation. The new budget, signed into law on Nov. 2 by President Barack Obama, contains an amendment that strikes the exemption.

Now, OSHA is required to issue an interim final rule increasing its penalties to account for current inflation levels, which would raise proposed fines by about 80%.

This would mean the maximum penalty for a willful violation would rise to about \$127,000 from the current \$70,000. The adjustment must occur before Aug. 1, 2016. In subsequent years, OSHA also will be allowed to adjust its penalty levels based on inflation.

## 9. OSHA's new filing requirements

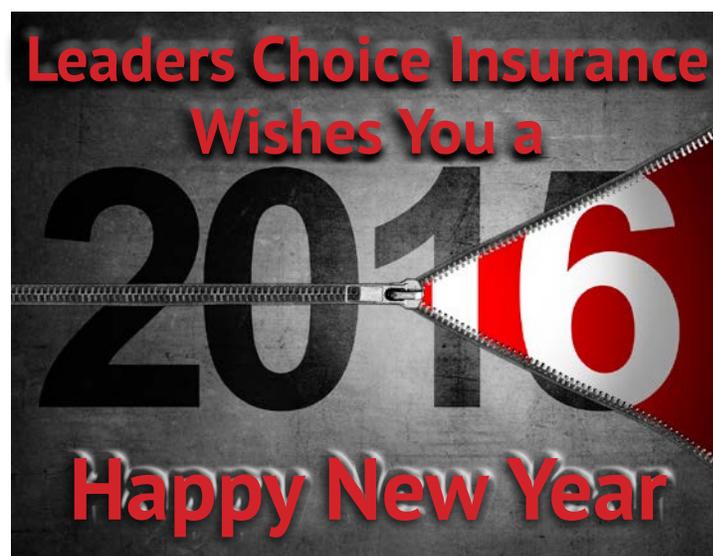
OSHA is likely to roll out a new rule that requires employers with 250 or more employees to electronically submit injury and illness records to OSHA on a quarterly basis.

Also, some smaller employers will be required to electronically submit their OSHA Form 300A form.

## 10. Paid sick leave

This law actually took effect on July 1, 2015 and new amendments took effect on July 13. Under the law, California employees are entitled to one hour of sick leave for every 30 hours worked.

The changes included clarifying who is a covered worker; alternative methods of accruing paid sick leave, other than one hour for every 30 hours worked; clarifying protections for employers that already provided paid sick leave or paid time off before Jan. 1, 2015; and providing alternative methods for paying employees who use paid sick leave. ❖



**DRIVER SAFETY**

# Hands-free Technology a Significant Danger: Study

**I**F YOU think that your driving employees are completely safe using hands-free mobile phone technology while on the job, a new study says otherwise.

Mental distractions can persist for nearly 30 seconds after dialing, changing music or sending a text using voice commands, according to new research by the AAA Foundation for Traffic Safety.

The researchers discovered the residual effects of mental distraction while comparing new hands-free technologies in 10 vehicles and three types of smart phones (Google Now, Apple Siri and Microsoft Cortana). The analysis found that all systems studied increased mental distraction to potentially unsafe levels.

Researchers found that potentially unsafe levels of mental distraction can last for as long as 27 seconds after completing a distracting task in the worst-performing systems studied. The faster a vehicle is traveling, the further it would go during this time.

When using the least-distracting systems, drivers remained impaired for more than 15 seconds after completing a task.

Drivers using phones and vehicle information systems may miss stop signs, pedestrians and other vehicles.

The research indicates that the use of voice-activated systems can be a distraction even at seemingly safe moments when there is a lull in traffic or the car is stopped at an intersection.

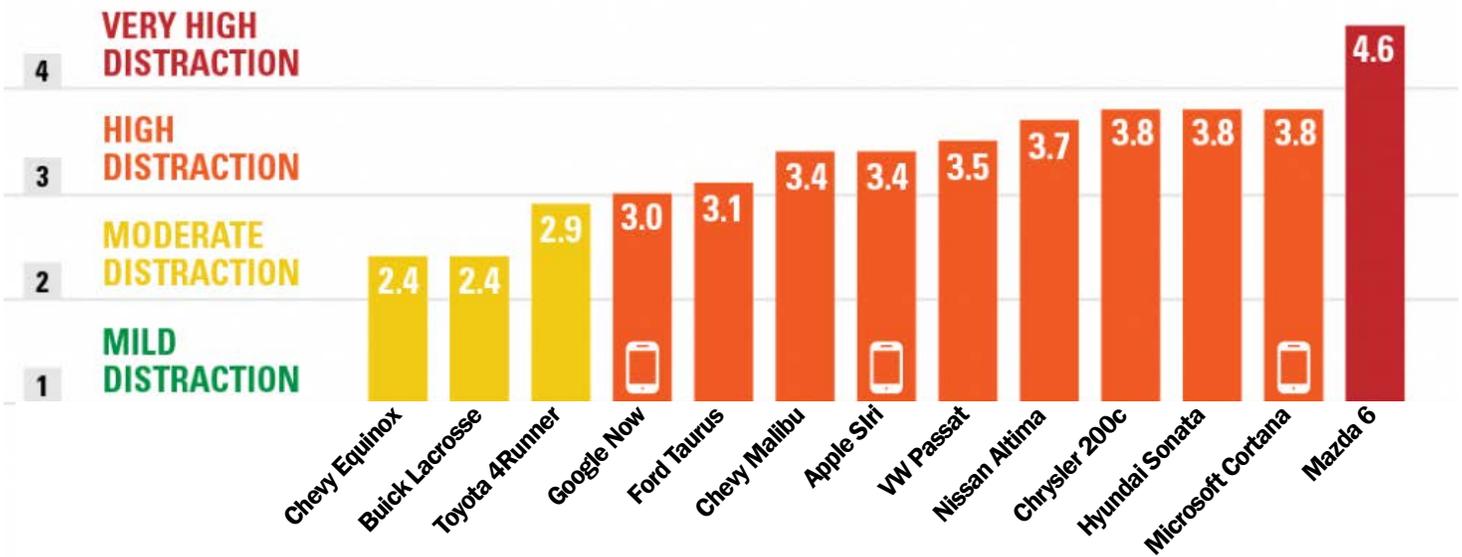
Mental distractions persist and can affect driver attention even after the light turns green.

Researchers rated the distraction level of the cars and smart phone technologies on a scale of 1-5, with anything above 2 deemed distracting enough to be a danger. ❖



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## MENTAL DISTRACTION RANKINGS OF VOICE-ACTIVATED SYSTEMS\*



\* Mental distraction rankings when using voice commands to make calls or change music while driving. Includes 2015 model year vehicles.

Source: AAA Foundation for Traffic Safety