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Risk Manager

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The importance of product liability insurance

In today's litigious society, businesses risk losing substantial sums in compensatory and punitive damages resulting from product-related accident and injury claims. Did you know your company could be sued if a customer is injured while using a product you manufacture, even if he or she used the product incorrectly or didn't follow directions? According to the legal doctrine of **strict liability**, your company could be held responsible even if there is no evidence of corporate negligence.

Product liability insurance can help protect your company against liability for actual or alleged product defects. It covers bodily injury and property damage caused by the product, as well as payment for legal defense costs.

Product liability coverage should not *replace* sound business practices, but rather, it should *complement* them. The best protection is to *prevent* claims in the first place. To accomplish this, consider taking the following precautions:

- Establish and enforce strict manufacturing, warehousing, and distribution standards and quality controls.
- Have an attorney specializing in product liability law review and approve all labeling, contracts, and advertising.
- Investigate accident and injury claims immediately and thoroughly.

Unfortunately, even the most prudent business practices do not always prevent lawsuits. With jury awards increasing in size, a damage claim, even if unwarranted, could have a serious impact on your bottom line. As a result, product liability insurance may be a protection you can't afford to be without.

Manufacturers aren't the only ones with cause for concern. Retailers, wholesalers, and distributors may also be held liable for product-related injuries, even if they are caused by manufacturing defects. A **vendor's endorsement** extends a manufacturer's product liability in-

urance to its retailers, wholesalers, and distributors, generally by adding the vendor's name to the manufacturer's general liability policy. If a lawsuit occurs, the vendor can turn to the manufacturer for protection.

However, before agreeing to a vendor's endorsement, be sure that the per claim and aggregate limits of the manufacturer's policy are high enough to cover potential claims. Also, be aware that a vendor's endorsement only provides coverage for the product as it is when it leaves the manufacturer's hands. If you, as a vendor, alter it in any way, such as relabeling or repackaging, you may not be covered. Vendor's coverage should not be considered a substitute for primary product liability protection but should be a supplement to a sound product liability insurance program.

Consulting with one of our insurance professionals can help you determine an appropriate course of action for protecting your business from potentially damaging product liability claims. Give us a call.

Did You Know?

The office party: consider liquor and liability

When planning company functions, business owners may question the appropriateness and circumstances surrounding the serving of alcohol as part of the festivities. While alcohol may seem to be a “fun extra” that adds to the party, businesses need to beware of the liability involved if an alcohol-related accident were to result.



Lawsuits resulting from a liquor liability could lead to a costly drain on a business's resources. In addition to the costs of legal defense and damages, a liquor liability lawsuit could bring negative publicity to a company and require long hours of staff involvement in court depositions and testimony.

When Are You Liable?

A court may find a business responsible for an alcohol-related accident under the following circumstances:

1. The event was held to further a company's interests, including the interests of developing bonds between employees and thanking employees for work done throughout the year, two common reasons for company parties.
2. Employees were requested by invitation or required (directly or by implication) to attend the function.
3. An employee consumed alcohol knowing that he or she would be driving from the function.

4. The primary cause of intoxication occurred while the employee was at the company event, not afterwards at a non-business-sponsored extension of the party.

Attempting to Control Consumption

The best way to avoid liquor liability is not to mix alcohol with a company function. However, if alcohol is going to be served, businesses can limit consumption and plan for the possibility of over-consumption. One way to limit drinking is to distribute drink tickets; after a certain number of free drinks, employees must either stop drinking or purchase additional drinks on their own. Another technique might be to serve non-alcoholic drinks for free, while charging for alcoholic beverages. Businesses should also consider serving some type of food to temper the effects of alcohol. Regardless of attempts to control consumption, owners should plan to provide designated drivers or taxi services, just in case the need arises.

To further protect a business where alcohol is involved, an owner should confirm that **host liquor liability insurance**, which provides coverage for companies not “in the business of manufacturing, selling, serving, or furnishing alcoholic beverages,” is included in the business's **commercial general liability policy**. Keep in mind that host liquor liability coverage may not apply if a business is involved in any function that charges (even indirectly) for alcoholic beverages or if a liquor license is required. Separate coverage may be arranged in those instances.

No business can afford to take chances with liquor liability. Before you decide to serve alcohol at your next office party or company event, please give us a call to make sure you are adequately protected.

Paid Sick Days: Basic Right or Benefit?

According to a 2008 survey conducted by the National Opinion Research Center at the University of Chicago, 77% of U.S. workers consider paid sick days to be “very important,” and 86% believe employers should be required by law to provide paid sick leave. Currently, few jurisdictions in the country mandate paid sick leave, though legislation pending in Congress would require employers with 15 or more workers to provide 7 paid sick days annually to employees.

Higher Gas Prices and Commuting

More than two-thirds (68%) of respondents told researchers they have not changed their commuting habits as a result of higher gas prices, a survey conducted by Harris Interactive for the Workforce Institute of human resources software provider Kronos Incorporated indicated. Of the 1,106 employees surveyed, 77% said they primarily drive to and from work, while just 7% take public transportation and 4% carpool.

Displaced Workers Re-employed

Displaced workers are defined as those 20 and older who lost or left jobs due to their plant or company closing or moving, insufficient work, or the elimination of their position or shift. According to the Bureau of Labor Statistics, from January 2005 through December 2007, 3.6 million workers were displaced from jobs they had held for at least 3 years. When surveyed in January 2008, 67% of these displaced workers had been re-employed.

For Your Information



What's a Small Business?

When Congress first established the Small Business Administration (SBA), the basic question was what numerical definition (or size standard) would be used to define small businesses in order to determine eligibility for SBA's programs and Federal Government contracts. This size standard is almost always based on the number of employees or average annual receipts of a business. For more information and to determine whether your business qualifies, visit www.sba.gov.

Federal Regulations Updates

The Federal Government has established Regulations.gov, an online source for all regulations (or rulemakings) issued by U.S. government agencies. The website allows users to access all proposed regulations that are open for public comment, as well as final rules as published in the Federal Register. Certain Federal agencies also accept comments on proposed rules through the website. Visit www.regulations.gov for more information.

The Energy Star Challenge

The Energy Star Challenge is a national call-to-action to improve the energy efficiency of commercial and industrial buildings by 10% or more. Energy efficiency is vital to reducing emissions of greenhouse gases that contribute to global climate change. As winter approaches, improving the energy efficiency of a business can help save on utility bills, prevent carbon dioxide emissions, and improve the dependability of the nation's energy supply. To learn more, visit www.energystar.gov.

Speaking the "language of safety"

With constant changes and advancements in today's technology, our society is becoming more of a global community. This trend may affect our daily lives, both at home and in the workplace.

As companies reach out internationally, many business owners find that their workforces include populations that speak multiple languages. With all the possible obstacles that a multilingual workforce may pose, safety should be a primary consideration.

As a business owner, you want your employees to be safe. When you have employees who don't speak English as their first language, how do you teach proper safety procedures? Many options are available to help ensure that employees are aware of proper procedures and remain safe.

Sign of the Times. Multilingual signage, particularly indicating hazardous conditions, may be an option. If half of your workforce speaks Spanish and the other half speaks English, posting signs in *both* languages may be a viable solution. When posting signs, you may want to include pictures and/or graphics to make the hazards more identifiable. For example, near dangerous materials, you could post a sign with words *and* an appropriate warning picture that corresponds to the hazard.

Training with Translators. When training your employees in appropriate safety procedures, consider hiring a translator. While some employees may speak both English and another language, relying on them to translate to those who don't speak English could be dangerous for the employees, as well as your business. While English-speaking employees may have adequate language skills to help non-English speakers

through their day-to-day business activities, they may lack the training to ensure that instructions are translated properly.

Multilingual Manuals. In addition to a safety-training program, it is wise to put your procedures in writing. Multilingual safety manuals reinforce safety awareness, outline important procedures, and benefit employer/employee relations. Companies that make an effort to bridge language barriers promote employee satisfaction and possibly reduce turnover.



Steps for Success

Creating a healthy, safe, and inclusive environment is a challenge shared by many business owners. But meeting the needs of your employees, especially the vital concern of language barriers, can contribute to your team's success. Incorporating these suggestions may help make your business a comfortable—and safe—environment for all employees.

Making your business more energy efficient

Over the last few decades, low energy prices have permitted U.S. companies to put energy efficiency near the bottom of their lists of business priorities. Poorly insulated buildings have been allowed to leak heat, computers and other equipment have been left on when not in use, and sales representatives have been allocated company cars that guzzle gas. While these inefficiencies may have had relatively little impact on the bottom line while energy was cheap, they have been cutting into profits significantly since the recent surge in oil and natural gas prices.

Taking the steps necessary to ensure your facilities, vehicles, and equipment are energy efficient is certainly an investment, but it is one that can yield substantial dividends. By upgrading to energy-efficient equipment and improving energy management practices, businesses can reduce their energy costs by at least 20%, according to environmental consultancy www.greenbiz.com.

Arranging an Energy Audit

If you have not recently conducted an energy audit of your business, now is a good time to do so. Contact your electric/utility company to find out if they offer on-site audits by technical consultants or account managers who can inspect your facilities and equipment and recommend ways to reduce your energy use.

You may find that your electric/utility company, and often your state and local government, offers incentives and rebates to businesses that upgrade to more energy-efficient equipment. Many

electric/utility companies have performance contracting or shared savings programs, which enable businesses to buy energy-efficient machinery and systems without investing capital upfront. The new equipment is paid for over a number of years out of the energy savings generated.

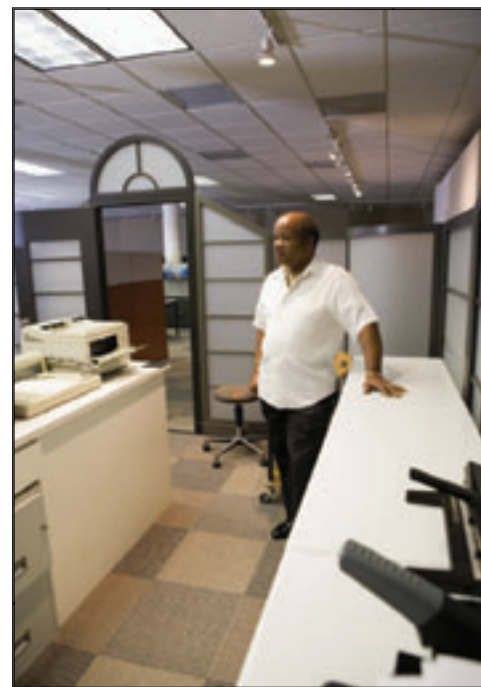
In addition, you may be eligible to take advantage of specialized services, such as the U.S. Department of Energy's Industrial Assessment Centers program, which performs industrial assessments and energy audits for small and medium-sized manufacturers at no cost to the business owner. Government agencies or nonprofits may also provide professional expertise to smaller companies.

Simple Energy-Saving Measures

Before you bring in the experts, you may want to conduct your own informal audit, which can expose areas where you can start saving energy immediately. You can use online tools provided by your utility company, or visit www.energyguide.com.

A stroll through your building after hours, for example, will demonstrate whether computers and other equipment are left on overnight. Allowing a single monitor to run overnight and on weekends can add \$30 or more to your annual energy bill, according to utility company NSTAR. Employees should be instructed to turn equipment off, or put computers into sleep mode, when they leave work. You may also find that lights are left on or heating and cooling systems are left running after hours or in areas of the building that

are not frequently used. This can be easily resolved by educating employees or installing motion sensors or timers. Check, too, for malfunctions in equipment that can cause machines to run inefficiently.



If you have a fleet of company vehicles, consider trading some or all of them in for more fuel-efficient models. Regular maintenance will also help to keep gas costs down. To discourage inappropriate and wasteful use of vehicles, ask employees to keep logs of their trips and mileage.

After you have completed your analysis, you may find that adjusting habits and making even minor improvements to systems that use a lot of energy, such as heating, cooling, or lighting, can produce substantial cost savings.