

Risk Monitor



Inside...

PAGE 1...

How To Legally Keep
A Vigilant Eye
On Your Employees

PAGE 2...

Covered Against Loss
for Your Business
Leased Equipment

PAGE 3...

Ten Actions Employers
Can Take to Prevent
Workplace Eye Injuries

PAGE 4...

Is Your Business in the
Right Insurance Class?

How To Legally Keep A Vigilant Eye On Your Employees

Employees being supervised in their work activities is an inherent element in most all employer-employee relationships. Effective supervision is a vital component in ensuring employees are completing the right work, the right way, and at the right time to make a business's operations as efficient and profitable as possible.

Employee supervision is also necessary to discourage employees from saying things that could harm the reputation of a business, result in legal liability for a business, or reveal a business's trade secrets. Of course, such threats are more present and concerning than ever in today's world of advanced



communication technology. It's no longer just a question of whether or not an employee will say something inappropriate over the office phone, but rather how they use an array of work-related communication technologies like cell phones, email accounts, and Internet browsers. As a result, many employers have turned to technology as a new means to monitor the activities of their employees.

Many employers have started to monitor the phone conversations conducted by their employees, which is usually allowed by state and federal laws for the purpose of quality control in regards to conversations between an employee and a client. Keep in mind that some states require businesses to give advanced notice to all parties involved in a call that's being monitored. Federal law, on the other hand, allows business calls to be monitored without such advanced notice, but does require an employer to quit listening if and when they realize it's a personal call. If a phone is specifically designated and labeled for business use only, then an employer can generally monitor calls of any nature. Additionally, employers can legally obtain a listing of every phone number dialed from a particular phone/extension and the length of the calls. Even when advanced notification isn't legally required, employers may find doing so helpful in proactively thwarting inappropriate communications.

According to the Electronic Communications Privacy Act of 1986, employers are allowed to monitor employee e-mails when an employee provides consent, the e-mail is related to the normal course of business, and/or the e-mails are stored within an in-house network computer. The keystrokes made on an employee's computer can even be monitored to determine how much and what type of text an employee produces.

The courts have routinely upheld an employer's right to monitor their computer systems. For example, the court ruled against a CIA employee who downloaded pornographic material and violated the CIA's Internet use policy. Another court ruled that there wasn't a reasonable expectation of e-mail mes-

continued on page 2



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Covered Against Loss for Your Business Leased Equipment

Guarding against technological obsolescence, enhancing cash flow flexibility, and the convenience of a range of services leasing companies provide are just a few of the reasons why a reported 80 percent of all United States businesses have leased equipment at one time or another. While leasing has become a widespread business practice, many companies never realize that they fall within an area of underinsured coverage.

Typically an equipment lease makes the lessee responsible for the leased property while it is under their control and generally requires that the lessee carry insurance on the leased goods. Most commercial property insurance policies will cover such equipment if it is contained and used inside. A common area of underinsured exposure occurs with the discrepancy between the compensation the leasing company requires if the property is destroyed and what the insurance company will reimburse.

Normally equipment leases require the lessee to replace the damaged equipment or pay off the balance of the lease. When it comes to the Personal Property of Others, most standard commercial property insurance policies pay out just Actual Cash Value, or the new equipment cost minus depreciation. The lessee would then be responsible for the difference between these two amounts.

For companies that rely heavily on expensive leased equipment, this exposure could prove costly if they suffer a widespread loss. Therefore any potential lessee should discuss this issue with their BancorpSouth Insurance Services, Inc. agent in the context of their specific policy and lease agreement.

One way to cover this area of exposure is to add an endorsement to your commercial policy to extend Replacement Cost Coverage to the leased equipment. Depending on the amount and type of equipment you have, however, it may be more cost-effective to self-insure the difference between the Replacement Cost and the Actual Cash Value.



continued from page 1...How To Legally Keep A Vigilant Eye On Your Employees

sage privacy in a case where an employee described his management using derogatory and profane language in an e-mail.

Legal experts recommend that employers planning to monitor e-mail and Internet activity create a comprehensive, clear employee Internet and email use policy with the assistance of their legal counsel. Be sure to take the following steps:


- The policy should clearly state Internet use rules, such as the types of files that can/can't be downloaded and the types of Internet sites that should/shouldn't be visited, and the disciplinary actions for offenses.
- The policy should clearly state that employee communications on the employer's computer system aren't private and are subject to being monitored.
- Use the policy to inform employees how long computer files will be stored and deleted.

- Require employees to sign a copy of the policy before providing them with access to the system.
- Post the key points of the policy on each computer's login screen.

Employers should keep in mind that, despite the above precautions and legal monitoring rights, an invasion of privacy lawsuit by an employee is still a possibility. Many employers purchase employment practices liability insurance to protect their financial well-being and cover the costs of litigation and unfavorable judgments.

Employers need to keep a vigilant eye on their employees, but that doesn't mean violating an employee's rights during the process. Avoid a lot of undue risk by using technology to your advantage, having a clear Internet and e-mail use policy, and an employment practices liability policy.

Ten Actions Employers Can Take to Prevent Workplace Eye Injuries



There are currently around a million American workers that have suffered some degree of sight loss due to an eye injury. In fact, it's estimated that there are some 700,000 workers injuring their eyes at work every year in America.

Such injuries can be financial nightmares for employers. While the above statistics may seem discouraging, 90% of eye injuries in the workplace can actually be avoided by the employee wearing the appropriate safety eyewear for the job. The following ten actions can help you prevent workplace eye injuries:

1. Assess the situation—study your eye-related incident and accident reports. Is there any area with a history of problems? Carefully assess day-to-day operations at your business. Do work areas, equipment, access routes, or operations pose any hazards to the eyes?
2. Have the appropriate eyewear available—make sure that the protective eyewear you select is designed for the specific hazard/duty and is in compliance with current OSHA (Occupational Safety and Health Act) standards.
3. All participate, zero tolerance—initiate a mandatory eye protection program for all operation area employees. Such a broad program is easier to enforce than one requiring eye protection in certain areas, but not others. Clearly define and enforce the disciplinary actions for infractions.
4. Eyewear doesn't protect if it doesn't fit—eyewear should comfortably fit a worker's face and never be borrowed or shared between workers. Only a trained eye care expert should fit and repair eyewear. Make it clear that workers are responsible for keeping up with their eyewear.
5. Routinely test vision—if an employee can't see correctly, then they're likely to eventually have an accident. Uncorrected

vision problems can be avoided by making vision testing a component of employee physicals.

6. Plan for accidents—plan ahead for potential emergencies by having eye injury first-aid procedures in place; training workers in first-aid and identifying any employees with advanced medical training; and having easily accessible eye-wash stations, especially in chemical areas.
7. Continue educating your employees—education is key to preventing accidents. Include eye safety and protective eyewear in new employee orientations. Continue the education in safety meetings, educational programs, and training programs.
8. Positive reinforcement—make sure that management and supervisors are following the same rules.
9. Put your safety policy in writing—make sure that you've distributed a copy of your safety policy to your employees and had them sign and date it. This should be routine during new employee orientation. Additionally, a copy of the policy should be displayed in a common area, such as a memo board or break room.
10. Reassess your policies—your ideal goal is zero eye-related accidents and injuries. Periodically review your accident prevention policy to see how well it's meeting your goal and make any necessary changes.



continued from page 4...Is Your Business in the Right Insurance Class?

klers may not work when a fire breaks out and the fire may destroy the entire building. The risk of a severe loss resulting from completed operations is much higher for the sprinkler contractor than it is for the plumber. If the underwriter classifies the sprinkler contractor as a plumber, the sprinkler contractor pays a much lower rate for completed operations coverage than it should. In the long term, loss experience will cause the rates for plumbers to increase. This is unfair to plumbers and to sprinkler contractors whose underwriters classified them properly.

Also, charging an inadequate premium may cause the business's experience modification to be higher than it should have been. The experience rating formula compares actual losses to the losses a typical business in that classification with that level of payroll or sales would have. If the classification is

wrong, the formula will understate the level of expected losses, resulting in a higher debit or lower credit.

The rating manual rules require that policies issued to businesses in some classifications carry specific endorsements (policy changes.) For example, the rules for restaurants require the company to attach an endorsement that changes the definition of the products-completed operations hazard. Use of the wrong classification can result in the wrong policy terms for the business.

A business owner should work closely with their Bancorp-South Insurance Services, Inc. agent to ensure that insurance companies are using appropriate classifications. While the wrong classification may appear to save the business money in the short run, it may prove to be costly in the long run.

Is Your Business in the Right Insurance Class?

Every business owner who has ever received a bill for an insurance premium has wondered how the insurance company came up with the price, especially if the premium has gone up since the last renewal. While the insurance pricing mechanism can seem mysterious, and may involve a certain amount of discretion by underwriters, the starting point is always the same: The underwriter must answer the question, "What type of business is this?"

That may appear to be a simple question, but it does not always have a simple answer. When the underwriter answers the question, she assigns the business to one or more classifications; more than any other factor, these classifications determine how much premium the business will pay. Classifying a business can be straightforward or it can be more art than science. Most state Workers' Compensation insurance manuals contain roughly 700 classifications; the Commercial General Liability insurance manual has a little less than double that. Compare those numbers to the thousands of business types that exist today and the new ones that will exist five years from now, and you get a sense for why classifying a business can be tricky.

Though it may appear that determining the correct classification is only the underwriter's problem, it also has short and long-term effects on the insurance buyer.

In addition, while workers' compensation, general liability, and property classification descriptions are similar in some cases, in many others they bear no resemblance to each other. The underwriter who knows she has correctly classified the business for one type of policy may find that classification to be of no help for the others.

Though it may appear that determining the correct classification is only the underwriter's problem, it also has short and long-term effects on the insurance buyer.

The correct classification ensures that the buyer pays the appropriate rate and that all buyers in that classification receive fair treatment. If the classification is incorrect, the buyer will pay a rate that is either too high or too low for that type of operation. For example, compare two contractors — one installs plumbing systems in commercial buildings, the other installs automatic sprinkler systems in them. If the plumber's work is faulty, a pipe may leak and cause water damage to furniture and equipment in one or more rooms. If the sprinkler contractor's work is faulty, the sprin-

continued on page 3



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