North Carolina Industrial Commission
Workers' Compensation

Understanding Your Workers’ Compensation Obligations
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Employer's Requirements to Carry Workers’ Comp Insurance

- North Carolina law requires that all businesses which regularly employ three or more employees obtain workers’ compensation insurance or qualify as self-insured employers.
Exceptions to the Three-Employee Rule

- **Use or Presence of Radiation**
  - Businesses in which one or more employees’ work involves the use or presence of radiation are required to have workers’ compensation insurance

- **Sawmills and Logging operators**
  - Less than ten (10) employees
  - Saws and logs less than 60 days in any six (6) consecutive months
  - Principal business is unrelated to sawmilling or logging

- **Federal Government**
  - Federal workers’ compensation is handled through the U.S. Department of Labor
Agricultural Employers

- Not required to carry workers’ compensation insurance unless:
  - Ten (10) or more full-time, non-seasonal agricultural workers
  - Regularly employed by the same employer

- Sellers of Agricultural Products
  - Does not apply to persons, firms, or corporations
    - Engaged in selling agricultural products for the producers thereof
    - On commission or for other compensation, paid by the producers
    - Product must have been prepared for sale by the producer
Who is an employee?

- Every person engaged in employment
  - Appointments, contract of hire, apprenticeships
  - Express or implied, oral, or written
- Includes people lawfully or unlawfully employed
  - Minors
  - Undocumented workers
- Includes temporary, part-time, and seasonal workers
Who is excluded as an employee?

- Casual Employees
  - Persons whose employment is both
    - Casual, and
    - Not in the course of the trade, business, profession, or occupation of his employer
- Domestic Servants
  - Directly employed by the household
- Certain railroad employees
Business Structure

- Sole proprietors, LLC members, and partners are not automatically counted as an employee; may elect to be included if they meet certain requirements under the statute.

- Corporate Officers
  - May elect to be excluded from existing insurance coverage
  - Still counted in determining whether a business has three (3) or more employees.
Principal Contractors & Subcontractors

- Any principal contractor or intermediate contractor cannot be held responsible for workers’ compensation liabilities of a subcontractor if:
  - Subcontractor has workers’ compensation insurance in effect on the date of injury regardless of whether a certificate of insurance was timely obtained
  - Or
  - The subcontractor’s workers’ compensation insurance expired prior to the date of injury provided that a certificate of insurance was obtained (a) at any point to subletting and (b) the principal was unaware of the expiration or cancellation

- This applies to principal contractors, intermediate contractors, or subcontractors who sublet any contract for the performance of any work
Trucking

- Any principal contractor, intermediate contractor, or subcontractor
  - Irrespective of whether it regularly employees three (3) or more employees
  - Contracts with an individual who operates a truck, tractor, or truck tractor trailer licensed by the US DOT and the individual has not obtained workers’ compensation insurance for himself personally and for his employees and subcontractors, then…
  - The principal contractor shall be liable as an employer for work-related injuries of the independent contractor, his employees, and subcontractors
Trucking: Exceptions

- Will not be liable as an employer if
  - Contract is with an independent contractor who is an individual licensed by US DOT and the independent contractor personally is operating the vehicle pursuant to that license
- A trucking company may obtain a blanket policy to cover all independent contractors and their employees or subcontractors
  - May include in contract an agreement for the independent contractor to reimburse the cost of covering that independent contractor under workers’ compensation insurance
Where do I get Workers’ Compensation Coverage?

- Conventional and open market
  - Insurance policy
  - Contact an independent insurance agent and request his/her assistance in providing your business with coverage
- Assigned risk pool
  - Option for employers without a sufficient history or that have been unable to obtain insurance in the open market due to risk
  - Administered by the N.C. Rate Bureau. For more information, call (919) 582-1056 and ask for an insurance agent.
Obtaining Coverage (continued)

- Self-insured
  - Must qualify to become self-insured. Assessment of your financial solvency
  - Contact the Department of Insurance (919) 807-6750

- Self-insured fund
  - Each business contributes financially to the self-insurance pool
  - To receive a list of the self-insured funds in North Carolina, contact the Department of Insurance at (919) 807-6750
How much does it cost?

- The cost varies depending upon your market of coverage.
- There are rates for each specific type or classification of employment.
- These rates are applied on a percentage basis.
- The percentage is applied to per one hundred ($100.00) dollars of payroll.
- You may contact your insurance agent to receive these rates and/or the N.C. Rate Bureau at (919) 582-1056.
What if I don’t have it?

• If you fail to carry workers’ compensation insurance, you may:

  1) Face stiff financial civil penalties;

      Business – minimum of $50.00 per day up to $100 per day depending upon number of employees

      Individual – assessed cost of claim as penalty

  2) Be charged with a misdemeanor;

  3) Be charged with a felony;

  4) Be imprisoned.

• Contact your lawyer or insurance agent if you are unsure of your responsibilities as an employer
You cannot waive the requirements of the North Carolina Workers’ Compensation Act
Fraud

The N.C. Industrial Commission Compliance and Fraud Investigative Division investigates:

• Employers who operate as non-insured employers in violation of the North Carolina Workers’ Compensation Act
• Suspected criminal violations of the Workers’ Compensation Act
  • Employees suspected of committing workers’ compensation fraud
  • Employers, insurers, health care providers, and attorneys suspected of criminal violation of the Workers’ Compensation Act
Contact Information

• Compliance and Fraud Investigative Division
  • Reporting Fraud
    • 1-888-891-4895
    • fraudcomplaints@ic.nc.gov

• North Carolina Industrial Commission
  • 919-807-2501 or 1-800-688-8349
    • Information Specialists (Option 3)

• Visit our website
  • www.ic.nc.gov
Employee Classification Section

- Created by Gov. McCrory’s Executive Order in January 2016
- Primary point of contact for employees, businesses, and citizens who desire to report suspected instances of employee misclassification
- E-mail: emp.classification@ic.nc.gov.
- Telephone: (919) 807-2582 / Fax: (919) 715-0282
- Mail: Employee Classification Section
  North Carolina Industrial Commission
  4333 Mail Service Center
  Raleigh, NC 27699-4333
Checklist for Reporting

- Name and address of business and/or individual you suspect is committing misclassification
- Nature of work/activities being performed by worker
- Other agencies to which this information has been reported
- Relationship of reporting party to the business, if any (employee, former employee, partner, competitor, etc.)
- Details about employer relationship with workers including, but not limited to: employer establishes the activities that constitute the daily work requirements for workers, employer provides direction on how to complete specific working tasks, employer provides equipment for workers to complete assignments/tasks, etc.
- Documentation that supports the claim for misclassification including, but not limited to: tax documentation, copies of payment records, employment offer letter, documentation pertaining to agreement for contracted services, etc.
- The number of additional workers performing the same and/or similar duties
- Additional information pertaining to suspected misclassification activity
Employee Classification Section

Contact Information:

Bradley L. Hicks
Director of Employee Classification Section
bradley.hicks@ic.nc.gov
(919) 807-2582