

What business owners **must know** about workers' compensation

Workers' compensation insurance protects employers and employees against financial loss in the event of injury. Employers must continuously carry workers' compensation insurance for their employees. For workers' compensation purposes, employees can include day laborers, leased and borrowed staff, volunteers, part-timers and family members, as well as most subcontractors. Visit wcb.ny.gov to download the *Employers' Handbook*, a comprehensive workers' compensation resource for businesspeople.

Who needs insurance?

1. Workers in all for-profit businesses.
2. Domestic workers, sitters, companions and live-in maids employed 40 hours per week in a residence.
3. Farm workers whose employer paid \$1,200 or more for farm labor in the preceding calendar year.
4. Most workers compensated by a nonprofit organization.
5. Any other worker the Workers' Compensation Board determines is an employee.

Who does not need insurance?

Business owners who are sole proprietors, individuals in partnerships, and one- or two-person corporations where the owners own all stock (a share or more each) and hold all corporate offices do not require coverage for themselves if they do not have any employees.

Business owners can always include themselves on a policy. For more complete information, including requirements for business owners serving as subcontractors, see the *Employers' Handbook*, found at wcb.ny.gov.

Independent contractors

Workers under your direct control may be considered your employees for workers' compensation purposes, regardless of their tax status. A worker's tax status does not determine if workers' compensation insurance is required: you may need insurance even for 1099 employees.

Obtaining insurance

Private Insurance. Hundreds of private insurance carriers are authorized to write workers' compensation insurance policies in New York.

Public Insurer. The New York State Insurance Fund. Visit nysif.com.

Individual Self-Insurance. Large employers can set aside reserves for self-insurance, in a formal, regulated process. Call the Board at (518) 402-0247.

Why comply with the law?

- There is a penalty of up to \$2,000 for every 10 days without insurance, as well as penalties for misrepresenting payroll, number of employees, and record-keeping failures.
- Not carrying workers' compensation insurance for more than five employees is a felony. Not carrying insurance for less than five employees is a misdemeanor.
- The Board actively pursues offenders with stop-work orders.
- Penalized people and businesses are debarred from public work contracts for one year.
- Business owners must personally pay lost wages and medical care for uninsured workers.
- Employees generally cannot sue an employer for a work-related injury or illness when the employer is insured.
- Insurers notify the Board when they write, modify or cancel insurance. If coverage is canceled without a replacement policy, the Board will contact the business owner. The employer's insurance status is public information, available on the Board's website, wcb.ny.gov.

Employer responsibilities when an injury/illness occurs

- Immediately notify your workers' compensation insurance carrier of any work related injury/illness. Employers can also notify the Board by filing the *Employer's Report of Work-Related Injury/Illness (Form C-2F)*. However, this is not required if your claim administrator or insurance carrier has filed a *First Report of Injury* timely on your behalf.
- Advise your insurance carrier if the injury/illness has caused or will cause a loss of time from work, will require medical treatment beyond ordinary first aid, or more than two applications of first aid.

Failure of the employer to file a First Report of Injury within 10 days of the occurrence may result in a penalty of up to \$2,500.

It is unlawful for an employer to discriminate against an employee who files or testifies in a workers' compensation case.