

Consumer's Guide to Commercial Liability Insurance

**State of Wisconsin
Office of the Commissioner of Insurance
P. O. Box 7873
Madison, WI 53707-7873
oci.wi.gov**

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the Commissioner of Insurance . . .
Leading the way in informing and protecting
the public and responding to their insurance needs.**

If you have a specific complaint about your insurance, refer it first to the insurance company or agent involved. If you do not receive satisfactory answers, contact the Office of the Commissioner of Insurance (OCI).

To file a complaint online or to print a complaint form:

OCI's Website

oci.wi.gov

Phone

(608) 266-0103 (In Madison)

or

1-800-236-8517 (Statewide)

Mailing Address

Office of the Commissioner of Insurance

P.O. Box 7873

Madison, WI 53707-7873

Email

ocicomplaints@wisconsin.gov

Please indicate your name, phone number, and email address.

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This publication provides basic information on commercial liability insurance. It includes a description of commercial liability insurance, how to shop for this insurance, and your legal protections as a Wisconsin insurance consumer. For more detailed information on commercial liability insurance, contact your insurance agent.

Commercial Liability Insurance

Liability, for insurance purposes, is defined as legal responsibility for property damage or bodily injury caused to others. Commercial liability insurance covers you for all or part of damages for liability imposed upon you or your business. It also provides coverage for the cost of legal defense when a claim is made against your policy.

Without adequate commercial liability coverage, you may have to pay damages and defense costs yourself, possibly causing financial hardship or bankruptcy.

Insurance Underwriting

All insurance companies use their own underwriting standards to determine eligibility for coverage and premium rates. They determine what to charge by placing you in a classification related to the nature of your business. The premium you are charged is based on the prevailing rate in that classification that you are placed.

Even if you have never been sued or had a claim filed against your policy, your premium may increase if there is a rate increase for your classification. If the insurance company chooses to increase your rate more than 25%, they must provide you with at least 60 days' notice.

Buying Insurance

For the most part, insurance is sold directly through an insurance company or indirectly through an agent or broker. An independent agent may represent several insurance companies. An exclusive agent, sometimes referred to as a "captive agent," sells solely for one insurance company or a group of related insurance companies. Independent agents and exclusive agents may place business with another insurance company if the insurance companies they represent do not write the type of insurance you need.

An agent may offer advice on the amount and types of commercial liability insurance you need. An agent may also help you shop around for your commercial liability insurance. Some agents may work with only one or a few insurance companies. They might be unable or unwilling to place insurance with other companies. Therefore, you may want to work with several agents to make sure you are getting the necessary coverage with the best value.

To assure you are dealing with a reliable agent, consider talking with other business owners in your community to learn who they use and how satisfied they are. Discuss your needs with an insurance agent who has experience with your particular type of business. For example, if your business is a manufacturing company, the risks you face will be very different from those of a pharmaceutical company. You may want an agent who specializes in your business field.

An insurance agent should make sure your coverage is up to date. Coverage should reflect the actual values of the business, including, but not limited to: new equipment, new structures or expanded operations. Review your coverage with your agent at least once a year. This gives you the opportunity to discuss any changes that have occurred, any increases in values, and adjustments in payroll and receipts.

Before signing an application for any insurance coverage, verify the company and agent are licensed in Wisconsin. Licensing information about agents and companies can be found on the Office of the Commissioner of Insurance's (OCI) website at oci.wi.gov or by calling 1-800-236-8517.

Your agent may shop both the regular and surplus lines market. Surplus lines insurance companies provide coverage that is hard to place in the regular market. **Surplus lines insurance companies are subject to limited insurance regulation and the policy must be placed and serviced by surplus lines agents or brokers.**

Ask your agent to explain anything about the policy you do not understand and to answer any other questions you might have. Among other matters, you should know what the policy does and does not cover. Be aware of your deductibles, coinsurance requirements, exclusions, exceptions, and limitations. Know how and when to make a claim and how claims are processed. In addition, know if your policy is written on an occurrence or claims-made basis. A policy written on an occurrence basis covers losses which arise from incidents occurring during the policy term. A policy written on a claims-made basis covers losses which arise from incidents occurring during the policy term but only if the claim is made during the policy term.

Your commercial liability insurance may be part of a package (such as a “multi-peril” policy discussed later in this publication). Meaning, you might be buying commercial liability and property insurance as a package. If you obtain commercial liability insurance as part of a package, be sure you understand the entire package.

Remember, you make the final decision on which policy to buy. Be certain it's an educated decision.

Risk Management

You may be able to reduce your premium through risk management. Risk management involves identifying and analyzing ways in which you may be exposed to liability, then selecting and implementing techniques that may limit your exposure. You can:

- Conduct safety inspections and programs for training employees in first-aid methods.
- Install a sprinkler system and an alarm that automatically notifies firefighters of a fire.
- Make sure the wiring in your building is in good shape.
- Train workers to lift heavy items properly and to wear safety masks and gloves when working with hazardous substances.
- Warn employees of any work-related dangers, such as the presence or use of radioactive materials or the use of certain chemicals or dyes.
- Store inventory in two locations so if there is a loss all the inventory will not be destroyed.
- Make sure all of your drivers have good driving records.

Implementing these measures may make it less likely you will be found liable. If you are found liable, these measures may help to ensure damage amounts remain relatively reasonable. Talk to your agent about which risk-management techniques might reduce your premiums.

Alternatives to Buying Liability Insurance

You do not have to buy liability insurance from an insurance company. Instead, you might be able to go without liability insurance, self-fund, or join a risk retention or purchasing group.

You should not go without liability insurance without careful consideration. Federal and state law requires certain businesses to have liability insurance as a condition of doing business. While going without insurance may save some premium dollars, it also exposes your business assets, and potentially your personal assets. You may end up paying for damages if you are found liable. You'll also be paying legal defense costs even if you are not found liable.

Instead of paying an insurance company to assume your risk, you may retain the risk by periodically setting aside money to pay damages. You may also cover damages with current operating revenue, if you are ever found liable. This is called self-funding. Again, the decision to self-fund should be made carefully. Most small businesses will not have the necessary resources to properly fund and manage a self-funded program. Moreover, you will probably have to hire an administrator to manage your self-funded program.

Federal law allows businesses to form risk-retention groups or purchasing groups to obtain liability insurance. A risk-retention group is a group of businesses which engage in similar or common business activities. They group

together to insure their exposure by forming an insurance company. A purchasing group is a group of businesses engaging in similar or common business activities that buy insurance as a group, rather than as individuals. Risk retention and purchasing groups may provide liability insurance at a lower cost than you might find if you bought insurance from an insurance company or as an individual. **Since these groups are exempt from most state insurance laws, you may not receive all of the protections afforded by the Wisconsin insurance statutes and regulations.**

Various Liability Insurance Coverages Available

Wisconsin law requires all business owners purchase certain types of liability insurance. These business owners may also purchase optional types of insurance. The following is a description of these required and optional coverages.

Required Coverages

- **Worker's Compensation**

Wisconsin law requires almost all employers to carry worker's compensation coverage for their employees. You must purchase this coverage from an agent or company licensed to sell worker's compensation insurance in Wisconsin.

For more information on worker's compensation insurance, a [Consumer's Guide to Worker's Compensation Insurance for Employers](#) is available on the OCI website.

- **Wisconsin Worker's Compensation Pool**

If coverage is not available in the open market, your agent should submit an application to the Wisconsin Compensation Rating Bureau (WCRB). The WCRB acts as the administrator and trustee of the Wisconsin Worker's Compensation Pool (Pool). The Pool is a risk-sharing plan created to provide worker's compensation insurance to any employer who is unable to obtain coverage in the open market and who is, in good faith, entitled to such insurance. Out-of-state employers with no Wisconsin operations and employers who owe the Pool monies from prior policies are not eligible for coverage from the Pool.

All companies licensed to write worker's compensation insurance in Wisconsin must contribute to the Pool. They are represented by four insurance companies designated as servicing carriers. The insurance company assigned to service a policy issued through the Pool writes the policy in its own name and provides claims, loss control, auditing, and other services, just as they would for their voluntarily written policyholders.

The WCRB will assign an insurance company to write the policy for you. Premiums are generally the same for coverage in the pool. Your insurance agent can provide you with further information and forms.

For more information on the Pool, contact your agent or you may call or visit www.wcrb.org:

Wisconsin Compensation Rating Bureau
P.O. Box 3080
Milwaukee, WI 53201-3080
(262) 796-4540 Phone

- **Auto Insurance**

Wisconsin law requires you to maintain minimum financial responsibility limits on motor vehicles you own and operate in connection with your business. The minimum financial responsibility requirements include:

- **Bodily Injury and Property Damage Liability**

This coverage protects drivers of your vehicle if they are responsible for causing injury or death to other people or damage to other property.

- **Uninsured Motorist**

This gives bodily injury protection to people in your vehicle if you are in an accident caused by an uninsured motorist or a “hit-and-run” driver. It does not include damage to property.

If you cannot find auto coverage from a standard insurance company, you may be eligible and apply through a licensed property and casualty agent for the Wisconsin Automobile Insurance Plan (WAIP). You may call or visit www.waip.org:

Wisconsin Auto Insurance Plan (WAIP)
20700 Swenson Drive, Suite 100
Waukesha, WI 53186
(262) 796-4599 Phone

Optional Coverages

There are many different types of liability policies available. A few of the major categories are listed below with a brief explanation of their application.

- **Owners, Landlords, and Tenants (OL&T)**

This type of coverage is intended to cover losses happening at the location of the business.

- **Manufacturers and Contractors**

This coverage expands on the OL&T coverage. It covers losses occurring away from the business location as well as at the business location.

- **Products and Completed Operations**

Product coverage is to protect against losses arising out of the manufacturing, selling, handling, or distribution of a product. Completed operations coverage protects against claims arising out of services performed by a business such as a building contractor.

- **Owners and Contractors Protective Liability**

This coverage provides protection for losses arising out of operations performed for you by independent contractors or subcontractors.

- **Directors and Officers**

This coverage provides protection to directors and officers from claims which arise from negligent conduct committed by them in their capacities as directors and officers.

- **Errors and Omissions**

This coverage, also known as professional liability, is available for numerous types of professionals. The coverage protects the professional persons or organizations from claims arising from failing to render professional services to their clients as expected of a person in their profession.

- **Contractual Liability**

This coverage insures liability assumed under a written contract or agreement.

One specific type of liability policy may not provide the proper coverage or enough coverage for your business. As a result, you may wish to buy a Comprehensive General Liability policy, which provides many liability coverages under one contract.

- **Multi-Peril Policy**

Though it is possible to purchase many separate insurance policies to cover a single business operation, this can be impractical. Therefore, rather than shopping for each type of insurance you need individually, you may want to buy a multi-peril policy. This is a comprehensive policy which can be tailored to suit your business needs. It will provide both property and liability protection. For many businesses it is the most efficient and economical way to buy insurance.

You might consider obtaining your liability and property insurance as part of a package. By placing your coverages together, you may eliminate the costly duplication of coverage associated with purchasing these policies separately. You may also receive a package discount.

- **Umbrella and Excess Liability Insurance**

Umbrella liability insurance provides two kinds of coverage:

- Payments of liabilities in excess of loss offered in your basic commercial policy, auto liability, or employers' liability coverages; and
- Liability for areas not covered in other liability policies.

Excess liability coverage provides protection for catastrophic accidents or occurrences, such as when a number of people are injured at once.

The main difference between excess and umbrella policies is umbrella policies cover all underlying liability policies whereas excess liability policies increase the limits of liability in one particular policy.

Again, before you buy, talk to several agents. Be sure to work with someone experienced in insuring commercial risks. Ask questions. **It is important to understand your coverage before you have a claim.**

Filing Claims

Insurance claims are usually divided into two types: liability and all others. Claims for buildings and contents, business automobile damage, or business interruption usually involve clearly visible losses. You should report your claim as soon as possible. Document the values you have lost to get your claim settled quickly.

You may not know right away whether there will be a liability claim if a visitor falls in the lobby, or if something goes wrong with a product.. Your insurance company will want to know about actual and potential losses as soon as you are aware there may be a claim.

Business owners have a contractual obligation to inform the insurance company or agent as soon as they become aware of a potential liability claim. Business owners risk losing coverage if they fail to inform the company of a liability claim. The insurance policy contains a "reporting clause" which specifies the time an insured has to file a claim. A standard general liability insurance policy states the recommendation a claim be reported as soon as you know of a potential loss.

Unfair Discrimination

Insurers may not refuse, cancel, or restrict coverage on the basis of the sex of the applicant or insured.

Insurers may not refuse, cancel, or deny coverage for auto or property insurance solely because of a past criminal record, physical or developmental disability, past mental disability, age, marital status, sexual preference, or "moral" character.

Insurers may not refuse, cancel, or limit the amount of coverage for property or casualty insurance because of the geographic location of the risk unless required by law or for a legitimate business purpose.

No insurer may refuse or limit coverage or charge a different rate because of a mental or physical condition except when the refusal, limitation, or rate differential is based on either sound actuarial principles, or actual or reasonably anticipated experience.

Legal Protections

There are several laws in Wisconsin designed to protect you both before and after you purchase commercial liability insurance. Some of these protections include:

- Insurance companies and agents may not misrepresent the terms of an insurance policy.
- Insurance companies may not unreasonably delay their claims investigations, fail to pay a legitimate claim within a reasonable time after proof of loss or engage in other unfair claims settlement practices.
- Insurance companies may not cancel a policy mid-term unless specific, limited reasons justify the cancellation.
- Insurance companies must provide a 60-day notice of nonrenewal. They also must give 60 days' notice of renewal on altered terms of an expiring policy when the companies increase rates by over 25% unless something you do causes the increase.

If you have a specific complaint about your insurance, refer it first to the insurance company or agent involved. If you do not receive satisfactory answers, contact OCI.