

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's Web Site:
oci.wi.gov**

**The mission of the Office of
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 Web Site

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

Electronic Mail

ocicomplaints@wisconsin.gov

Please indicate your name, phone number, and e-mail address.

**Deaf, hearing, or speech impaired callers may
reach OCI through WI TRS**

This guide is not a legal analysis of your rights under any insurance policy or government program. Your insurance policy, program rules, Wisconsin law, federal law, and court decisions establish your rights. You may want to consult an attorney for legal guidance about your specific rights.

The Office of the Commissioner of Insurance does not represent that the information in this publication is complete, accurate or timely in all instances. All information is subject to change on a regular basis, without notice.

Publications are updated annually unless otherwise stated. Publications are available on OCI's Web site oci.wi.gov. If you need a printed copy of a publication, use the online order form or call 1-800-236-8517.

One copy of this publication is available free of charge to the general public. All materials may be printed or copied without permission.

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Employer Web Site

The Office of the Commissioner of Insurance (OCI) has information on its Web site (oci.wi.gov/consumer/employers.htm) to help employers become more knowledgeable insurance consumers by providing information on the different types of insurance policies on the market, how much coverage to buy, and how to buy it wisely.

This brochure provides you with basic information on commercial liability insurance. The information includes a description of commercial liability insurance, how you should shop for this insurance, and your legal protections as a Wisconsin insurance consumer. This brochure provides general information. For more detailed and complete information on commercial liability insurance, you may wish to contact your insurance agent or local public library.

Commercial Liability Insurance

Commercial liability insurance pays part or all of the damages for liability imposed upon you or your business by the law. It also pays the cost of defending you when a claim is made against your policy.

Without adequate commercial liability coverage, you may have to pay damages and defense costs yourself. If these damages and costs are high enough, you may suffer financial hardship or bankruptcy.

Insurance Underwriting

Insurance companies use their own underwriting standards to determine if your business is eligible for insurance coverage and, if so, what price you should pay for the coverage. The companies determine what to charge you by placing you in a classification related to the nature of your business. You are then charged a premium based on the rate prevailing in the classification in which you are placed.

Thus, even if you have never been sued or had a claim filed against your policy, you may still have your premium increased if the rate for your classification increases. If your company chooses to increase your rate more than 25%, it must provide you with at least 60 days' notification.

Buying Insurance

For the most part insurance is sold directly through a company or indirectly through an agent or broker. An independent agent may represent several insurance companies. An exclusive agent, also sometimes referred to as a "captive agent," sells solely for one company or group of related companies. Independent agents as well as exclusive agents may place business with another company if the company(s) he or she represents does not write the type of insurance needed. A broker represents you in your dealings with an insurance company.

When buying liability insurance, you should:

- Contact several agents and companies.
- Shop around.
- *Understand what you are buying.*

An agent can offer advice on the amount and types of commercial liability insurance you need. An agent can also help you shop around for your commercial liability insurance. Some agents, however, may work with only one or a few insurance companies. They may be unable or unwilling to place insurance with other companies. You should work with several agents, therefore, to make sure that you are getting the needed coverage at the best available price.

To assure that you are dealing with a reliable agent, you may wish to talk with other business owners in your community to learn what agents they use and how satisfied they are with these agents. You should also discuss your needs with an 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 and you may need an agent who specializes in your field to assist you.

You may also want to check the Office of the Commissioner of Insurance (OCI) Web site to find out if a particular agent is licensed to do business in this state and if any complaints have been filed against the agent or any disciplinary action taken against that agent. Agent information can be found on OCI's Web site at oci.wi.gov (under "Search for . . ." click on "An agent/agency"). You may also call 1-800-236-8517 for licensing information.

Your agent may shop both the regular and surplus lines market. The regular market consists of insurance companies licensed to do business in Wisconsin. The surplus lines market consists of insurance companies that do not hold a valid certificate of authority to conduct insurance business in this state or do hold a valid certificate but not for the line of business being placed. These insurance companies write insurance 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.*

Before an insurance company is authorized to write insurance policies in Wisconsin, the insurance company must be licensed by OCI. To find out if a company is licensed or for more information on surplus lines insurance,

see OCI's Web site at oci.wi.gov (under "Search for . . ." click on "A company"). You may also call (608) 267-9456 or 1-800-236-8517.

Ask your agent to explain anything about the policy that 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, including any deductibles or coinsurance requirements, exclusions, exceptions, or limitations, how and when to make a claim and how claims are processed. You should also 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 brochure). This means that you might buy not only commercial liability insurance but also property and other types of 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 that it is 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 found liable (your "exposure to liability") and selecting and implementing techniques to be used to handle the exposure. You can:

- Conduct safety inspections and programs for training employees in first-aid methods.
- Install a sprinkler system on your premises which may make losses less likely or injuries less severe.
- 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.
- Install a sprinkler system and an alarm that automatically notifies firefighters of a fire.

- Store inventory in two locations so if there is a loss all the inventory will not be destroyed.
- Make sure that all your drivers have good driving records.

Implementing these measures may make it less likely that you will be found liable or, if you are found liable, these measures may help to ensure that damage amounts remain relatively reasonable. You should talk to your agent about which risk-management techniques you can use that may reduce your premiums.

Legal Protections

Wisconsin has several laws 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 believe that an insurance company has violated your rights, you may want to first complain to your agent or the company. If this does not resolve the problem, you should probably file a complaint with OCI. An online complaint form is available on OCI's Web site at oci.wi.gov/com_form.htm or contact:

Information and Complaint Section
Office of the Commissioner of Insurance
125 South Webster Street
P.O. Box 7873
Madison, WI 53707-7873
(608) 266-0103 (Madison)
1-800-236-8517 (Statewide)

Make sure you have included detailed information about your insurance problem. The more complete and accurate

this information is, the more likely it is that your problem can be resolved. *Be sure that you have included the correct name of the insurance company from which you bought the policy. Many companies have very similar names.* Listing the wrong name may delay the investigation of your complaint.

Alternatives to Buying Liability Insurance

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

You should not go without liability insurance without careful consideration. While going without insurance may save you some premium dollars, it also exposes your business assets and perhaps your personal assets to paying for damages should you ever be found liable and to paying legal defense costs even if you are not found liable. Moreover, federal and state law requires certain businesses to have liability insurance as a condition of doing business. If yours is one of these businesses, you must have liability insurance.

Instead of paying an insurance company to assume your risk, you may retain the risk by periodically setting aside money to pay damages or by paying damages with current operating revenue should you ever be found liable. This is called self-funding. Again, the decision to self-fund should be made carefully. Most small businesses will not have the needed 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 properly.

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 and which insure their liability risks by forming an insurance company. A purchasing group is a group of businesses which engage in similar or common business activities and which buy insurance as a group rather than as individuals. Risk retention and purchasing groups may provide liability insurance at lower prices than you could 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 that all business owners purchase certain types of liability insurance. These business owners may also purchase optional types of insurance. What follows is a description of these required and optional coverages.

Required Coverages

Worker's Compensation

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

For further information on the laws relating to worker's compensation insurance contact:

Wisconsin Worker's Compensation Division
Department of Workforce Development (DWD)
dwd.wisconsin.gov

Appleton area office:
Worker's Compensation Division
Fidelity Bank Bldg.
54 Park Place, Suite 900
Appleton, WI 54914
(920) 832-5450 Phone
(920) 832-5355 Fax

Madison area office:
Worker's Compensation Division
P.O. Box 7901
201 East Washington Avenue, Room C100
Madison, WI 53707-7901
(608) 266-1340 Phone
(608) 267-0394 Fax

Milwaukee area office:
Worker's Compensation Division
State Office Building, Room 330
819 North 6th Street
Milwaukee, WI 53203
(414) 227-4381 Phone
(414) 227-4012 Fax

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 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 insurers licensed to write worker's compensation insurance in Wisconsin must participate in funding the Pool and are represented by eight insurance companies that have been 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 insurer to write the policy for you. The premium cost is generally the same for assigned coverage. Your insurance agent can provide you with further information and forms.

For more information on the Pool, contact your agent or the WCRB at:

Street address:

Wisconsin Compensation Rating Bureau
20700 Swenson Drive, Suite 100
Waukesha, WI 53186

Mailing address:

Wisconsin Compensation Rating Bureau
P.O. Box 3080
Milwaukee, WI 53201-3080

(262) 796-4540 Phone
(262) 796-4400 Fax

Internet address:

www.wcrb.org

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:

1. *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.
2. *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. Every policy which offers motor vehicle liability coverage must include this coverage.

If you cannot find auto coverage from any company you can apply through any licensed property and casualty agent to the Wisconsin Automobile Insurance Plan (WAIP). For general information on WAIP call:

Wisconsin Auto Insurance Plan (WAIP)
20700 Swenson Drive, Suite 100
Waukesha, WI 53186
(262) 796-4599 Phone
(262) 796-4400 Fax
www.waip.org

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 written mainly to cover losses that happen at the location of the business.

Manufacturers and Contractors. This coverage expands on the OL&T coverage to include coverage for losses that happen away from the business location as well as at the location of the business.

Products and Completed Operations. Product coverage is to protect against losses arising out of the manufacturing, selling, handling, or distributing 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.

It may be that one specific type of liability policy will not provide the proper coverage or enough coverage for your business. In that case, 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 and which will provide both property and liability protection. For many businesses it is the most efficient and economical way to buy insurance.

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 that 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 deal with someone experienced in insuring commercial risks. Ask questions. *It is important to understand the coverages you will be getting 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. To get your claim settled quickly document the values that you lost.

If a visitor falls in the lobby or if something went wrong with a product, you may not know right away whether there will be a liability claim. Your insurance company will want to know about actual and potential general and product liability claims as soon as you are aware that there is or could be a claim.

Business owners have a contractual obligation to inform the insurance company or agent as soon as they become aware of liability claims. 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. With a standard general liability insurance policy it is recommended that a claim be reported as soon as you know of a loss.

Shopping Tips

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

Compare coverages. This type of insurance is not a commodity. There are important coverage differences to look for when comparing offerings from different insurance companies. You may need to work with several agents to make sure that you are getting the needed coverage at the best available price.

In buying insurance, price is certainly a big consideration. But your insurance agent also performs an important role. An agent makes sure that your insurance is up-to-date, reflecting the actual values of the business, such as new equipment, new structure or expanded operations. *It is important to discuss with your agent, at least once a year, any changes that have occurred during the year, any increases in values, and increases in payroll and receipts.*

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.