



216 E. Broadway, P.O. Box 557 · Salem, NJ 08079-0557  
 (856) 935-0845 · (856) 935-4223 FAX  
 www.hdyoung.com · insure@hdyoung.com



Fall/Winter 2007

Your Business

## New York state WC law reform affects New Jersey employers

A significant change in the New York state Workers' Compensation Law (2007 Reform Act) will impact you as an employer if you conduct any work or business in New York state or employ any person whose duties involve activities that take place in New York state.

Effective Sept. 9, 2007, all out-of-state employers are required to cover employees working in New York state with a workers' compensation policy showing New York state listed under Item 3.A. of the Information Page.

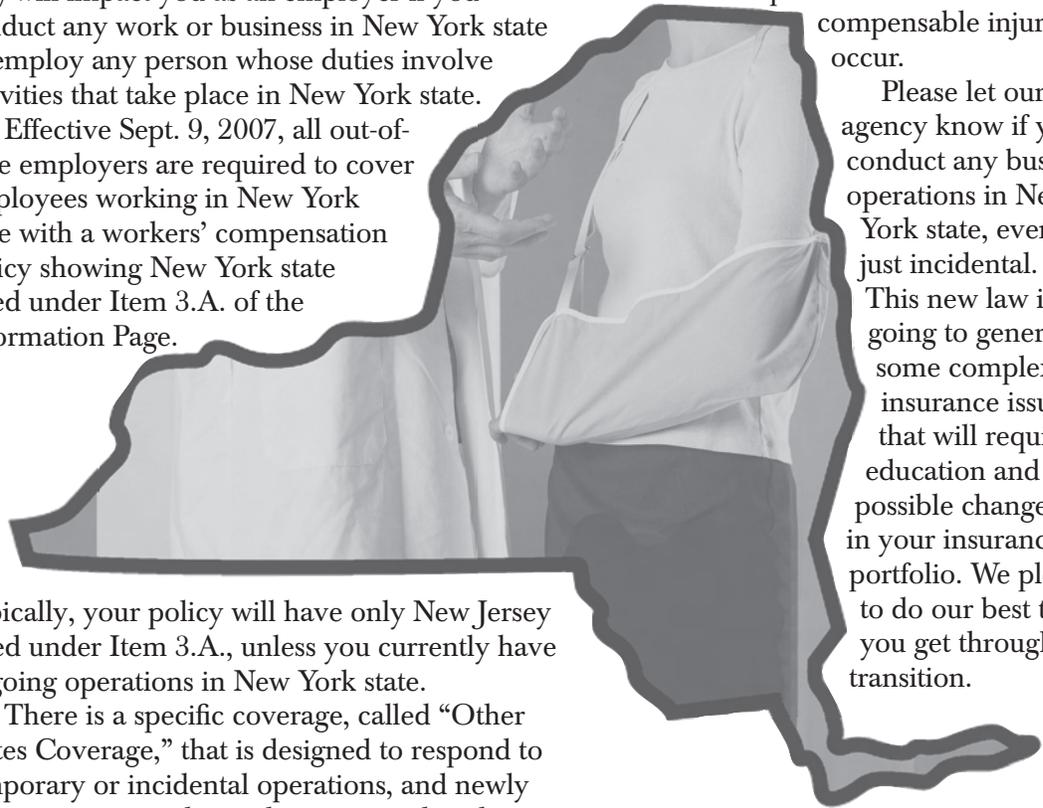
Typically, your policy will have only New Jersey listed under Item 3.A., unless you currently have ongoing operations in New York state.

There is a specific coverage, called "Other States Coverage," that is designed to respond to temporary or incidental operations, and newly begun operations, located in a state other than New Jersey. Prior to Sept. 9, 2007, Other States coverage was sufficient protection for temporary or incidental employment in New York state, but now this coverage offers no benefit to these workers.

Technically, an out-of-state employer that sends an employee to attend a seminar or conference in New York state will be required to maintain a New York state policy. While the New York Workers' Compensation Board is unlikely to track such incidental employment

for enforcement purposes, an employer will nevertheless be subject to uninsured penalties should a compensable injury occur.

Please let our agency know if you conduct any business operations in New York state, even if just incidental. This new law is going to generate some complex insurance issues that will require education and possible changes in your insurance portfolio. We pledge to do our best to help you get through this transition.



### Index

Do you have a complete business insurance plan? .....	2
Avoid hiring bad drivers .....	2
Telecommuting: valuable tool opens possible risk .....	3
New law criminalizes construction worker misclassification .....	4
Our focus is excellence .....	4

## Do you have a complete business insurance plan?

While it can vary from state-to-state and sometimes by particulars of a company, the law dictates that businesses must carry insurance against certain risks—workers' compensation and auto insurance for company vehicles are two examples. But, simply complying with the law is no guarantee of complete protection for your business.

It doesn't stretch the imagination to conjure up scenarios that could be devastating to a business: flooding, fire, theft, and/or a lawsuit. Even if your company carries protection against these risks, poorly thought out limits, sky high deductibles or both may actually have left your business with more an illusion of coverage than real protection. That is why it is critical for companies of all sizes

and all lines of business to conduct a full risk assessment, figuring out all the risk exposures that might temporarily cripple your business—or worse—if left unprotected.

Choosing the right insurance protection is an important decision for any business owner. We understand one of the challenges of operating a business today is the rising cost of coverage. Fortunately, as independent agents we are not tied to any one insurance carrier; we are free to place your coverage with a variety of insurers, allowing us to put together a complete business insurance plan that truly fits, at a rate that's right for you. Give us a call today and make sure your business is covered completely.

## Avoid hiring bad drivers

Every time you request a quote on your fleet insurance, the insurance company requests the name, date of birth and driver's license number for each of your drivers. Does the insurance company really need this information?

The answer to that question is yes. This information forms the insurance carrier's picture of your overall fleet operation. If you have bad drivers, then your fleet will not be a good insurance risk. And this will mean higher premiums.

Bad drivers will display themselves in many ways. Your accident rate will be higher than average, your operating costs will be higher than average and you will suffer higher-than-average vehicle downtime. This is costly for both the insurance company and for your business.

What is a bad driver? The definition of a bad driver varies, depending on the standpoint of the employer or of the insurance company.

The employer's idea of a bad driver is one who does not deliver loads on a timely basis, does not take care of the vehicle or has no respect for authority. The insurance company views a bad driver entirely different. The insurance company is concerned with who has accidents and why. Their definition of a bad driver is one who gets a lot of speeding tickets, has accidents, is inexperienced or is an aggressive driver.

The following ideas may help to avoid the risk of hiring a bad driver.

1. always run a Motor Vehicle Report on a new applicant;
2. require a written application asking about accidents and tickets; and
3. take a test drive with the applicant.

If you hire your drivers carefully, you may save money on your insurance premiums. Give our agency a call.



## Telecommuting: valuable tool opens possible risk

Telecommuting as a concept is not new. In the past, working from home, working from the road and working from the hotel where the conference is being held have been ways the business world have experienced the idea of telecommuting. However, the one key difference is that in the previously listed scenarios, the employee would eventually return to the office where his/her work could be finished.

Telecommuting is based on the premise that the home office (or in some cases the satellite office) is it; everything that needs to be done on a day-to-day basis can be done as effectively at the telecommuter's home office as it can be done in the traditional brick-and-mortar office. For self-motivated employees and/or part-time employees the option of telecommuting can help retain and keep them. Telecommuting can be an attractive benefit in areas where daily commutes are difficult; for employees with children; and/or for seasoned employees with proven track records. With rapid advances in technology, telecommuting has become a true reality, with proven results.

But, what about the risks of having employees work off-site? A successful business with strong management can overcome the hurdles of managing and getting productive efforts from telecommuting employees.

The potential risks, including employee compensation disputes, are many; however, there are two that leap to the forefront when deciding if the option of telecommuting will work for your business. Let's face it, technology makes effective telework possible ... but technology also presents a major security risk. With information being

faxed and/or e-mailed off-site, the potential for lost or stolen data goes far beyond "the lost laptop." Employers must know how secure the off-site work location is, who has access to the

office equipment and how, if at all, paper storage is handled. Certainly, security issues are a key counterpoint to the idea of telecommuting. Employers must enable technologies to store e-mails, record electronic document transmissions and establish proxy capabilities to the office equipment of the off-site work station.

The second risk is one of a more traditional nature—workers' compensation. When an employee is on-site, or out of

the office on company business, workers' compensation law is clear and the process for such claims is as close to routine as possible. Employees injured at home while performing work-related duties are covered under most workers' compensation policies; however, the difficulty comes when determining when the employee was working and when the employee was not working. The first way to combat this problem is to have a clearly defined policy for off-site work station regulations. Employers must be able to set the work station-standards in which their employees will operate. All care must be taken to eliminate potential problems just as if the off-site location was the office itself.

Telecommuting, no doubt, is a valuable tool to the future of the business world in the efforts to streamline budgets and attract top-notch talent. The benefits are many, and if time is taken to understand the risks, the benefits outweigh the risks. Understanding risk is a key component to any industry ... make sure the importance of this is not overlooked in your company.



## New law criminalizes construction worker misclassification

On July 13, 2007, the governor signed A-4009 into law (Chapter 114). The legislation criminalizes the misclassification of construction workers as independent contractors for purposes of the New Jersey Prevailing Wage Act; Unemployment Compensation Law; Temporary Disability Benefits Law; New Jersey Gross Income Tax Act; and New Jersey State Wage and Hour Law.

An employer, or any officer, agent, superintendent, foreman or employee of the employer who fails to classify an individual properly as an employee and fails to pay wages, benefits, taxes or other contributions required by the above laws is guilty of a disorderly persons offense and may be fined between \$100 and \$1,000; imprisoned between 10 and 90 days; or both. If the failure is done knowingly, it is a second-degree crime where the contract amount is \$75,000 or more and a fourth-degree crime if the contract is \$2,500 or less.

In addition to a range of criminal penalties, misclassifying workers also may result in civil penalties, immediate suspension of a contractor's registration, issuance of a stop-work order for second and subsequent violations and debarment from contracting for public works.

The new law also creates a private right of action for workers who have been misclassified knowingly. A labor organization has the right to bring the action on behalf of an individual. In addition to damages, the court may



award attorney's fees and other costs of the action.

Unlike other states that have recently passed similar legislation, Chapter 114 does not apply to workers' compensation misclassifications. The original bill had included workers' compensation, but it was deleted from the bill when a workers' compensation judge noted that the employment test set forth in the bill differs from the test used to determine workers' compensation eligibility.

Under the bill, a working relationship shall be deemed to be employment unless and until it is shown to the satisfaction of the Department of Labor and Workforce Development that: 1) the individual has been and will continue to be free from control or direction over the performance of that service, both

under his contract of service and in fact; 2) the service is either outside the usual course of the business for which the service is performed, or the service is performed outside of all the places of business of the employer for which the service is performed; and 3) the individual is customarily engaged in an independently established trade, occupation, profession or business.

The failure to withhold federal or state income taxes or to pay unemployment compensation contributions or workers' compensation premiums with respect to an individual's wages will not be considered in making an employment determination.

## Our focus is excellence

You've spent countless hours developing a business plan. You've hired a talented staff and purchased office equipment to get things up and running. You've burned the midnight oil and worked numerous weekends to build your business. And, if a lawsuit or natural disaster strikes, or some other crisis sends your company into a frenzy, your smooth operating machine won't be lost—because you've bought basic insurance, right? As an independent agent, our goal is to assist you in all your insurance needs. We will help you manage and plan for all your potential risks. As professionals, we address your needs and offer you a variety of insurance products to choose

from. Personal service, whether it is in response to an insurance claim or your questions, is the most important value we offer.

Our employees work hard to build a trusted relationship with our customers. We strive to make you feel both comfortable and confident with our abilities by acting as your consultant. We are dedicated to our customers and we work with companies that offer you the coverages you need at a fair price.

We work for you. We work on your side when you have a loss and follow through to see that you get a fair and prompt result.