

## HUMAN RESOURCES

# New Overtime Pay Exemption Rules Put on Ice

**A** FEDERAL JUDGE in Texas late last month issued an order temporarily blocking the Department of Labor's new white-collar overtime rules from taking effect on Dec. 1.

The sudden move threw a monkey wrench into many employers' plans to either increase employees' salaries or prepare to implement more stringent adherence to schedules in order to avoid paying overtime.

The preliminary injunction blocked the implementation of rules requiring employers to pay overtime to workers who make less than a new threshold of \$47,476. So for now, the current \$23,660 annual salary threshold remains.

So close to implementation, the injunction is bound to confuse HR and payroll plans to implement the new rules in just a few days. Since many companies had already informed employees of pay raises or new work guidelines to fit within the new threshold, it may be hard to turn back.

At this point you should not make any rash moves.

While you may decide to hold off on any adjustments, you should still be prepared for the eventual implementation of the regulation. Also keep in mind that reversing course on promises made to employees could also damage morale.

### What happened?

The lawsuit that U.S. District Judge Amos Mazzant issued the preliminary injunction for argues that the Fair Labor Standards Act does not allow the DOL to rely solely on the salary threshold to decide who is eligible for overtime pay.

The suit contends that any overtime pay revision must also address the duties test that defines who qualifies for the FLSA's executive, administrative and professional exemptions.

Mazzant wrote that the new overtime rules' "significant increase to the salary level creates essentially a de facto salary-only test." The new rules explicitly left the duties test unchanged.

### What to tell employees

Employment law firm Seyfarth Shaw urges employers to communicate honestly with affected staff. It suggests informing them about the decision and that for now you've suspended any plans depending on how the lawsuit proceeds. ❖

## Sample Language

“A federal court in Texas has issued an order that makes it uncertain how the FLSA's overtime pay exemptions apply to employees who would be impacted by the new rules that were to go into effect on December 1. Because of the court's order, those rules will not go into effect as expected. To ensure that it is able to follow the laws that govern how employees are paid under the FLSA, the company has revised its plans and will be reporting back to you soon about how this will impact you.”

*Recommended by Seyfarth Shaw*



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## COMMERCIAL AUTO INSURANCE

# Rates Trend Higher amid More and Costlier Crashes

**Y**OU SHOULD prepare for increases in your commercial vehicle insurance coverage for 2017 as accidents, injuries and costs rise for the first time in decades and insurers make up for years of low pricing.

Commercial auto insurance premiums have been trending between 6 and 10% higher since early this year and, if you're policy comes due Jan. 1 or during next year, you may see your premiums increase. Experts say that rates are increasing in nearly all commercial auto segments – but trucking is feeling it more acutely.

The reason for the increase is that there are more accidents taking place on the roads and the costs of the claims – everything from vehicle repair to medical costs – are increasing for various reasons.

Auto insurance rates are rising at the fastest pace in almost 13 years, according to the Insurance Information Institute. The effects are being felt harder in the commercial auto insurance market than in the personal market.

That's because commercial insurance rates have been stable for many years, barely budging despite rising costs. And now some insurers have left the market, reducing the supply of insurers in the segment, which has reduced competition and bumped up pricing.

The premium hike therefore essentially boils down to two factors: more accidents and rising claims costs.

### Higher accident frequency

The increase in accidents, injuries and deaths is the result of:

- More people on the road due to cheaper fuel.
- More people on the road because the economy has improved and more people are driving.
- An increase in accidents due to distracted driving (mostly from texting using a smart phone or talking on the phone while behind the wheel).

One of the main contributing issues is risky behavior, which studies have found to be widespread. About 87% of drivers surveyed by the AAA Foundation for Traffic Safety in February 2016 reported that they

had engaged in at least one risky behavior while driving in the past month, including using their phone or not wearing a seat belt.

### Rising claims costs

According to the Insurance Research Council, the average cost of a liability claim increased 32% from \$11,738 in 2005 to \$15,506 in 2013. In 2014, it had reached \$16,600, up 7% from the year prior.

Meanwhile, the average cost of personal injury protection claims (often referred to as no-fault claims) increased by 38.2% – from \$5,802 to \$8,017 – between 2005 and 2013.

### Factors that are increasing costs:

- The cost of medical care for injured parties is increasing, particularly in the commercial auto segment, as victims of car or truck crashes tend to take longer to recover.
- As cars have become more high-tech, it has gotten more expensive to repair them. Also, more commercial vehicles than ever are being totaled, meaning the insurer has to pay out for the market value of the vehicle, because designs are often being altered to meet fuel and weight standards.
- Prices have been suppressed in the commercial market, and there are now fewer players in the market.

### What you can do

While base rates are rising and out of your control, you can double down on safe-driver training for your employees.

If you can educate your driving employees in safe-driving best practices, you will reduce your accident rates, which will be reflected in the premium you pay.

For example, motor carriers that are very safe and have good "Compliance, Safety, Accountability" scores from the Federal Motor Carrier Safety Administration, are finding premium renewal rates that are consistent.

You can also adopt advanced technology like telematics and dash-cams, both of which have been shown to improve overall driver safety. Cameras also help insurance companies when adjusting claims. ❖



## HOLIDAY ACTIVITIES

## Keep Safe When Decorating Your Workplace

**A**S THE HOLIDAY season rolls around again, your business will have new safety considerations to confront.

From holiday parties and risk of electrical shock to fires and trips and falls, companies have a set of safety and risk management challenges that may not be present during most of the year.

But decorating and decorations present their own set of safety challenges and this is what you need to be aware of when decking your office's halls:



## Lighting safety

- Use LED lights. Not only do they burn cool, they are also more economical because they only use 10% of the electricity consumed by other bulbs.
- Use lights that are recommended by a reputable testing laboratory. Such lights are usually labeled "UL" or "ETL".
- Prior to use, inspect lights and extension cords for defects or damage. Check for loose connections, cracked or broken sockets and bare or frayed wires. Workers should report all defects to their supervisor.
- Immediately replace burned-out bulbs with ones that have the same wattage. Unplug Christmas lights when replacing bulbs.
- Make sure you don't create a maze of wires, cords and plugs when plugging in Christmas lighting.
- Never use outdoor lights indoors.
- Make sure Christmas lights and other electrical outdoor decorations are plugged into a ground-fault circuit interrupter. This device helps prevent electric shock and fire.
- Never use nails or tacks to secure cords of lights. Also, don't run strings of lights through hooks.
- Never pull on a string of Christmas lights.
- Always turn off Christmas lights before leaving the business premises. Never leave them on overnight.

## Christmas trees

- Consider an artificial tree, which poses less risk than a live one.
- If you have a live tree, make sure that it is properly watered so it doesn't dry out, which is a fire hazard.
- Live trees can be safer when sprayed with flame retardant.
- Put your tree in an area that doesn't impede foot traffic or movement of workers.
- Don't put live trees near heat sources such as space heaters, where they can dry out and pose a greater fire hazard.



## Safety while decorating

Keep all relevant OSHA regulations in mind when decorating your workplace: both when in the process of decorating and making sure you don't create new safety hazards that will last for the duration of the month.



When your staff are decorating the office, ensure that they stick to the same safety guidelines that they would otherwise follow:

- **Ladder safety** – Make sure employees don't stand on tables, desks or rolling desk chairs when hanging lights or other decorations. Insist that they use ladders and that they have a partner to hold the ladder when they are working on high.
- **Keep walkways unobstructed** – You may have boxes of Christmas decorations that you bring out every year, or you may purchase new decorations too. When employees are decorating, make sure they keep all walkways free of wires, cords, boxes or any of the material you are putting up. When people are working in a disorderly fashion, they can easily trip and fall.
- **Install wisely** – Also make sure employees don't put up decorations in a way that can impede movement of your workers or office visitors, or create trip hazards or expose staff to getting caught in the decorations.
- **Unobstructed exits** – Do not place any type of decorative items in exit corridors or on sprinklers. It's essential to verify that none of your decorations block exit signage or fire safety equipment.

Heffernan Insurance  
Wishes You a  
Happy Holidays

## BUSINESS CONTINUITY

# Why Your Company Needs 'Key Individual' Coverage

**I**F YOU ARE operating a small business, you are likely relying on a small staff to get the job done.

Many employees in small firms have to wear many hats and if one of them or an owner should die, the business could suffer greatly from that sudden loss of talent.

If you don't have "key individual" insurance, that setback could be devastating to the viability of your operations, whereas coverage would provide you with extra funding that you would need while recovering from the loss.

Key individual insurance is simply life insurance on the key person in a business. In a small business, this is usually the owner, the founders or perhaps a key employee or two.

These are the people who are crucial to a business – the ones whose absence would sink the company. You need key individual insurance on those people.

### Key individual insurance basics

Before purchasing coverage, you should give some thought to the effects on your company of possibly losing certain partners or employees.

In opting for this type of coverage, your company would take out life insurance on the key individuals, pay the premiums and designate itself as the beneficiary of the policy.

If that person unexpectedly dies, your company receives the claim payout.

This payout would essentially allow your business to stay afloat as you recover from the sudden loss of that employee or partner, without whom it would be difficult to keep the business operating in the short term.

Your company can use the insurance proceeds for expenses until it can find a replacement person, or, if necessary, pay off debts, distribute money to investors, pay severance to employees and close the business down in an orderly manner.

In other words, in the aftermath of this tragedy, the insurance would give you more options than immediate bankruptcy.

### Determining whom to cover

Ask yourself: Who is irreplaceable in the short term?

In many small businesses it is the founder who holds the company together – he or she may keep the books, manage the employees, handle the key customers, and so on. If that person is gone, the business pretty much stops. ❖

### Determining amount of coverage

- The amount of coverage depends on your business and revenue.
- Think of how much money your business would need to survive until it could replace the key person, come up to speed and get the business back on its feet.
- Buy a policy that fits into your budget and will address your short-term cash needs in case of tragedy.
- Ask us to get some quotes from different insurers.
- Check rates for different levels of coverage (\$100,000, \$500,000, etc.)

**WE CAN CHECK RATES FOR YOU  
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