

News You Can Use



Because You're Different

Wildfire Threat

Creating a Defensible Space for Your Business

WITH WILDFIRES growing in number and intensity and a difficult property insurance market, businesses that own properties in wildfire-prone areas need to do all they can to protect their facilities.

Hardening a building against wildfires by using defensible space, fire-resistant materials and other techniques makes sense, because:

- It can reduce the chances of the building suffering damage if a wildfire hits the area.
- It can help a business secure or keep insurance for the property or reduce the severity of future rate hikes. Insurers that are willing to cover properties in higher-risk areas are often requiring that the owners take these steps in advance.

In this issue we will look at how you can create a defensible space for your business to better protect your property and appease your insurer.

Hardening your property

Think of defensible space as a protective area around your property that includes vegetation that is carefully selected and spaced and routinely maintained. The spacing between grass,



PROTECTING YOUR COMMERCIAL PROPERTY

- **Zone 0 (0-5 feet)** : Concrete, gravel mulch and low-growing plants or lawns are good choices for this zone. Avoid combustible materials.
- **Zone 1 (5-30 feet)** : Vegetation island. Low tree branches should be pruned. Remove shrubs.
- **Zone 2 (30-100 feet)** : Keep tidy. Thin out vegetation between trees. Remove shrubs. Don't let tree canopies touch.

shrubs and trees is crucial to protecting a property, be that a business or a home.

Defensible space is usually broken down into zones:

Zone 0 (Zero to 5 feet from building) –

This area should be kept clear of combustible debris or shrubbery. CalFire recommends:

- Using hardscape. Instead of bark or mulch, use gravel, pavers or concrete.
- Removing all dead and dying plants. Do this on all adjacent areas, as well as removing debris and leaves from the building roof and rain gutters.
- Remove or prune flammable plants and shrubs near windows.
- Remove any branches that hang over your roof. No new trees should be planted in this zone.
- Limit combustible items. Remove any decorations, fixtures or furnishings that are made of flammable material.

Zone 1 (5-30 feet from building) – This is considered the "combustible zone" since it is likely to have trees, grass and bushes. Besides paying attention to spacing and how

See more on page 2

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Compliance Alert

Pregnant Workers' Fairness Act Takes Effect

IF YOU have not yet done so, it's time to update your employee handbooks and the Equal Employment Opportunity Commission "Know Your Rights: Workplace Discrimination is Illegal" poster to account for changes to workplace anti-discrimination laws.

The Pregnant Workers' Fairness Act, signed into law last year, came into effect June 27 and the EEOC has announced that it will start accepting complaints on day one.

The Act requires "covered employers" to provide "reasonable accommodations" to a worker's known limitations related to pregnancy, childbirth or related medical conditions, unless the accommodation will cause the employer an "undue hardship."

A "covered employer" is a private or public sector employer with at least 15 workers.

The Act only covers accommodations, while existing laws make it illegal to fire or otherwise discriminate against workers on the basis of pregnancy, childbirth or related medical conditions.

Due to the new law, employers will also need to swap out their current posters with new versions that include the new protected class.

The poster

Since the law took effect June 27, if you have not already done so, download, print and then post the new poster alongside your other workplace posters. You can download the poster below:

English-language version

Spanish-language version

For additional information about this EEOC update, visit the agency's website.

Internal steps

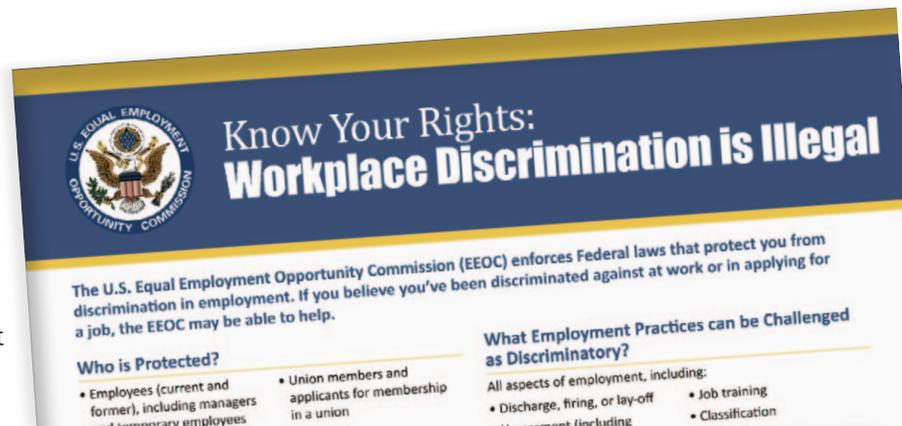
The new law requires that leave be considered as a reasonable accommodation. However, if you have in place an existing pregnancy/maternity leave policy that applies to all workers, the policy may violate this law if that is all you are offering pregnant employees per your handbook, according to an analysis of the law by *JDSupra.com*, a legal website.

Additionally, *JDSupra.com* recommends that you train supervisors and managers on the new law and that they will need to offer accommodations to pregnant employees, such as light duty, which previously may have only been offered to those injured on the job and/or who had serious, long-term medical conditions such as cancer, PTSD or diabetes.

It also recommends updating your employee handbook to list "pregnancy" as its own protected class in both your "Equal Employment Opportunity" and "Accommodation Request" sections.

Finally, the website warns: "In both your policies and in practice, putting a pregnant employee 'out on leave' should not be your initial, only, or otherwise 'go to' move when it comes to 'accommodation.'"

If you have questions, feel free to contact us. ❖



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Use Non-Combustible Materials for Walkways

many plants you have, this area requires regular upkeep to reduce the risk of fire.

CalFire recommends:

- Removing all dead plants, grass, dry leaves, pine needles and weeds (vegetation).
- Trimming trees regularly to keep branches a minimum of 10 feet from other trees and from hanging over the building.
- Planting low, well-irrigated plants like vegetables, succulents, grasses, groundcover, seasonal flowering annuals, or lawn (and walkable lawn alternatives) close to the building, and larger shrubs and trees further away from the house.
- Using non-combustible materials for walkways.

Zone 2 (30 to 100+ feet from building) – This zone is essential for decreasing the speed of a fire.

Steps to take include:

- Maintain plants and remove dry debris and dead plants.
- Use plants that are native to the area.
- Move anything flammable during a nearby wildfire 30 feet away from structures. This includes any inventory or tools and implements you may keep on the property.
- Plant vegetation with ample spacing.

Part two: In the next issue, we will look at fire-resistant materials and actions you can take to harden your business property. ❖

Produced by Risk Media Solutions on behalf of Heffernan Insurance Brokers. This newsletter is not intended to provide legal advice, but rather perspective on recent regulatory issues, trends and standards affecting insurance, workplace safety, risk management and employee benefits. Please consult your broker or legal counsel for further information on the topics covered herein. Copyright 2023 all rights reserved.

Pricing Trend

Commercial Auto Insurance Rates Spiking

SKYROCKETING CLAIMS costs and higher accident rates are pressuring the commercial auto insurance market. As insurers impose increasingly larger rate hikes, others have either pulled out of the market or are more restrictive about who they will cover.

While rate increases have been the standard for nearly a decade, since 2022 hikes are growing larger – often in the 20% range, and that's for firms with few or no claims.

The final three months of 2022 marked the 45th consecutive quarter – or more than 11 years – of increased premiums for commercial auto, according to the Council of Insurance Agents and Brokers.

Factors driving higher rates include:

Rising repair and replacement costs – Repair and parts costs increased 15% in 2022 from the year prior, according to the Department of Labor.

Parts costs have been rising due to inflation and some supply-chain issues. Additionally, newer vehicles cost more to repair due to the additional technology built into them.

Repair shops are also facing a labor shortage, which coupled with sometimes long wait times for replacement parts is increasing repair times. That in turn triggers ancillary costs such as temporary car rental or other alternative transportation expenses.

Liability costs – These are driven by rising jury awards and so-called nuclear, or exceptionally high, awards. Large trucks and SUVs, popular throughout the country, also cause more damage when they are in accidents and are more likely to leave a third party injured or dead.

Thefts – Events that involved theft of at least one heavy commercial vehicle increased by 17% from 2021 to 2022, according to a report by CargoNet.

The average value of cargo stolen per event was \$214,104.

What insurers are doing

While average rate increases have been in the double digits – many in the 20% range – companies located in high-density areas like San Francisco, San Jose, San Diego and the Los Angeles metropolitan area are seeing even higher rate hikes.

Some carriers have stopped writing commercial auto insurance altogether, citing unsustainable losses.

Also, many insurers will only accept a commercial auto policy if the business also buys it as part of a package that includes property insurance and a liability policy.

Insurers are also scrutinizing drivers more. They are declining driving employees that have more than one point on their record, when they used to make exceptions.

Carriers are also pushing their insureds to install tracking devices on their vehicles that measure driving, vehicle speed, how many hours a day a driver is behind the wheel and other metrics.

These tracking devices can also help locate vehicles that have been stolen.

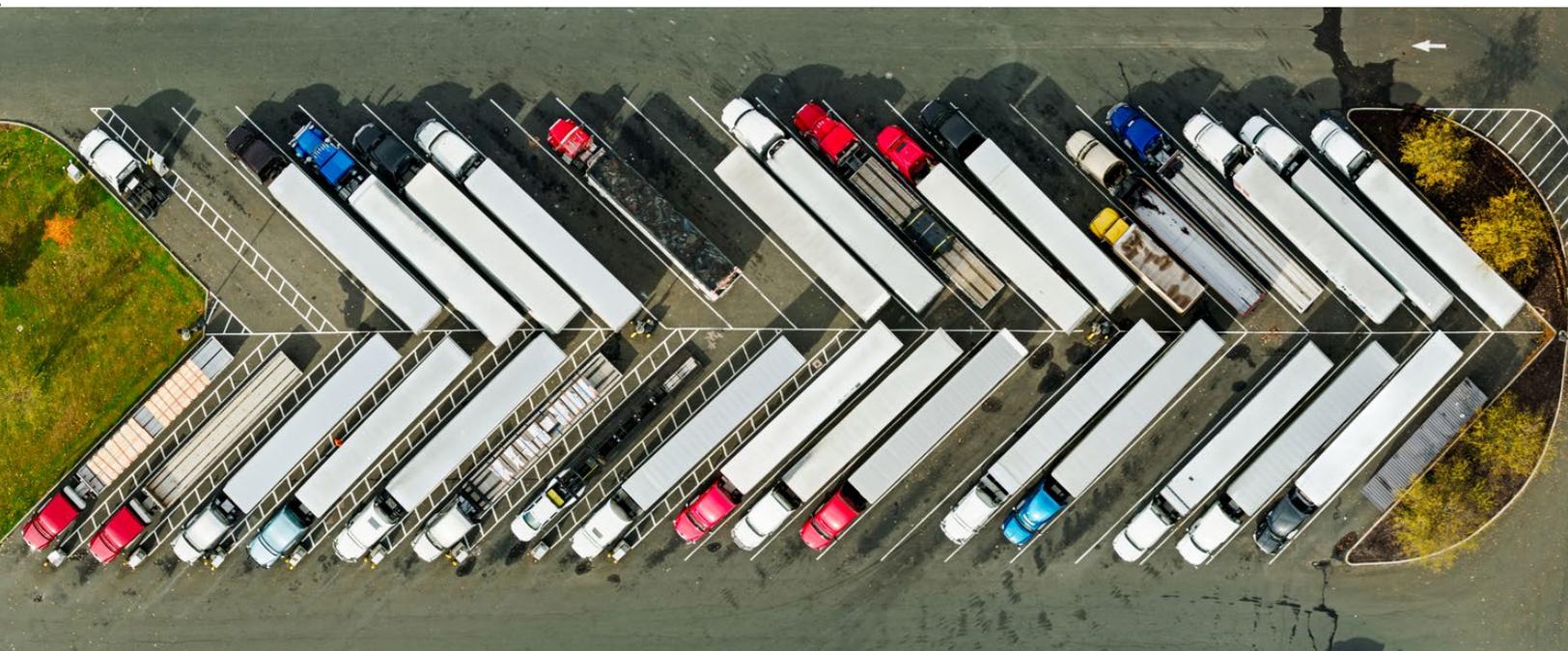
What you can do

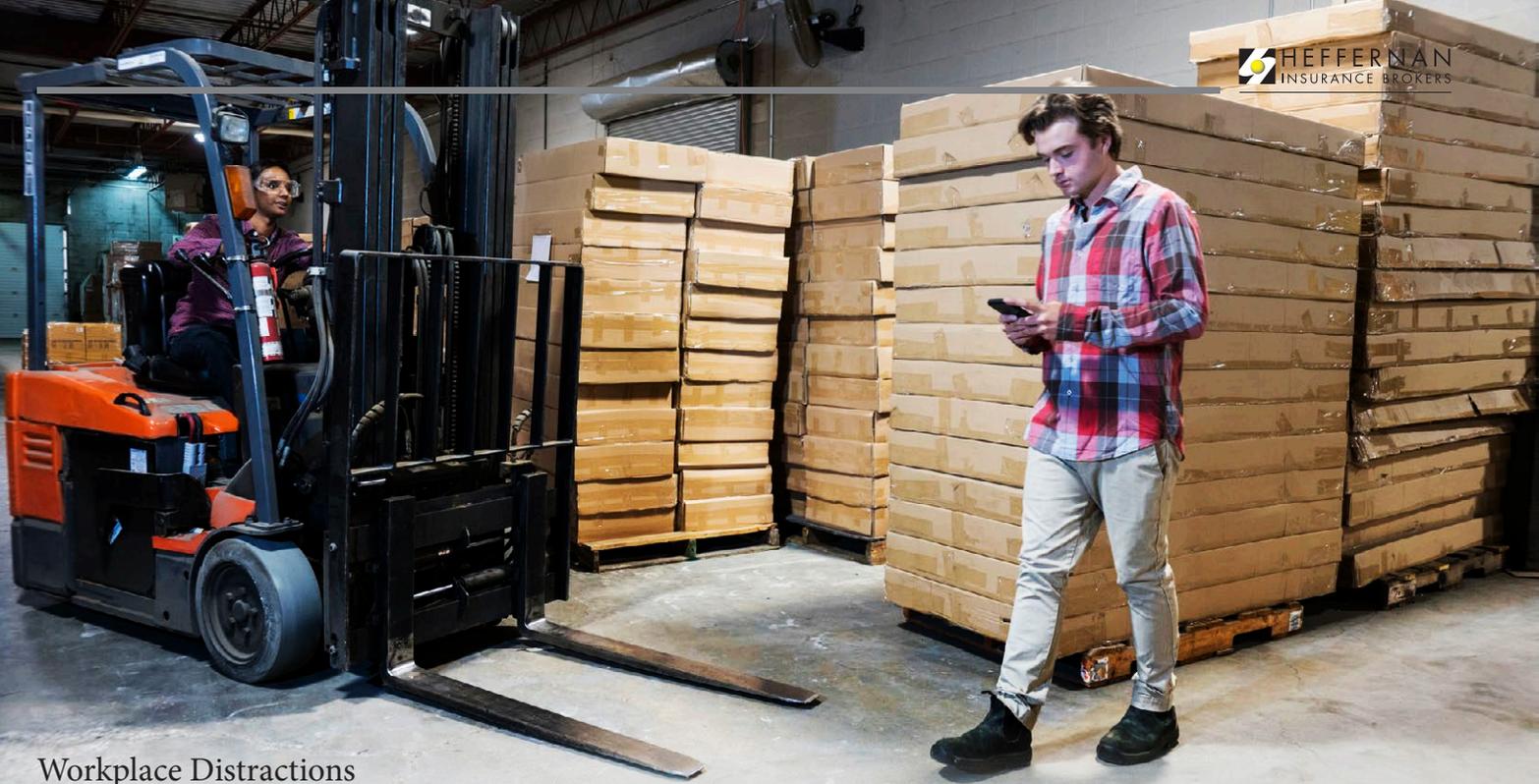
If you're faced with higher premiums, you can increase your deductible to lessen the blow, but you'll pay more for claims out of pocket when they occur.

If your premiums have increased dramatically or if your insurer is not renewing your policy, we will look for another carrier or try the surplus lines market, which consists of carriers not licensed in the state.

These are quality companies like Lloyd's of London and similar carriers, but rates can also high in this market.

But be prepared for additional demands from the insurer, including ensuring you have drivers without multiple driving infractions, being prepared to also put other coverages with the carrier and installing tracking devices on your vehicles. ❖





Workplace Distractions

More Firms Ban Smartphones at Work

MORE AND more employers are banning cell phones in the workplace because they are distracting enough to be a serious safety issue for workers.

“The Digital Distraction & Workplace Safety” study, issued by Screen Education, reported that 14% of employer respondents said at least one accident had occurred at their workplace because an employee was distracted by their smartphone. These accidents had serious consequences:

- 59% caused property damage
- 50% caused injury or death

Surprisingly, 47% of respondents said they had in place cell phone restrictions, meaning that the employees were flouting the rules when they caused the accident.

Companies are wising up. General Motors has banned all employees, including its CEO, from walking around with their mobile phones while talking, texting or using other smartphone functions.

That’s a smart policy. In busy workplaces, safety should be your primary concern.

Machinery and phones don’t mix

OSHA bars the use of cell phones in construction regulations pertaining to cranes and derricks, but the hazard exists across any dangerous equipment.

Some workers should absolutely not have their mobile phones on and within

reach, such as powered industrial truck operators, forklift drivers and machinery users. If you have any of these among your workforce, you should strictly ban the use of mobile phones in any capacity during the use of industrial equipment.

You may consider extending the ban to include anyone on the floor of a factory or warehouse or where heavy equipment and machinery is in use.

Potential property damage

Distracted cell phone usage is known to cause workers to accidentally misuse equipment or machinery, which can result in either small or serious damage to company property.

Furthermore, the cost of replacing damaged property can have a major financial impact on your organization and possibly be at your expense.

Reduced productivity

Cell phone usage can have adverse effects on warehouse production levels and the individual performance of your employees.

People who are on their phones could be working instead and, if someone is involved in social media banter or watching an amusing video on YouTube, it’s easy for them to ignore important matters that come across their desks.

What you can do

Create a policy that explicitly explains when and where employees may use their mobile phones while on the job. ❖

RULES TO CONSIDER

Consider the following for your rules:

- Mobile phones are barred for employees when performing on-site job-related tasks.
- Answering calls, texting, checking social media or using the internet are all activities that fall under dangerous cell phone usage.
- Set parameters for when and where employees are allowed to use their phones.
- Consider restricting types of media and videos.
- Hold employees accountable to productivity levels. Note that time spent on the phone on personal matters is keeping them from focusing on their jobs.