

# Workers' Comp & Safety News

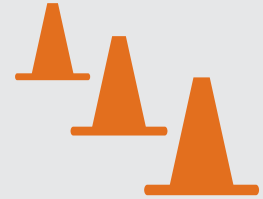


The Art  
of Hospitality

## Hospitality Insurance Specialist:

- Custom Tailored Insurance Programs
- Loss Control and Risk Management
- Safety Compliance and Training

13950 Cerritos Corporate Drive, Suite A • Cerritos, CA 90703  
800-466-8951 • 800-494-6829 fax  
www.petrarisksolutions.com • Lic# 0817715



Safety

April/May 2015

Volume 13 • Number 2

## What You Know About Alcohol Abuse and Injuries vs. the Truth

When researching the effects of alcohol on workplace injuries, you'll likely stumble across a statistic attributing 38 to 50 percent of all workplace injuries to alcohol or drug abuse. If that sounds shockingly high to you, you're probably right.

The statistic supposedly comes from a report by the NCCI, the National Council on Compensation Insurance. But the NCCI denies ever putting that number out. A 2011 article in *Business Insurance* quoted several experts as saying that statistic sounds high to them. In fact, no central source for that kind of data exists.

The *Business Insurance* article reported that a spokeswoman for the California State Compensation Insurance Fund said that fewer than 1 percent of its claimants were intoxicated at the time of their injury. However, workers' compensation insurers depend on employers to report whether an employee was intoxicated at the time of an



continued on next page

## Risk Note

Fee schedules help control workers' compensation medical costs, according to the Workers Compensation Research Institute. In a study of hospital costs in 33 states, the WCRI found that states that paid workers' compensation costs as a percent of fee charged or no fee schedules had the highest payments to hospitals for outpatient expenses for occupational knee and shoulder surgeries. Costs ranged from 60 to 141 percent higher in these states.

In 2014, workers' compensation costs averaged 44 cents per hour worked, or 1.4 percent of total compensation, according to the Bureau of Labor Statistics. That's up from 43 cents per hour in 2013, but because wages in-

continued on next page

accident, and many employers either do not test for alcohol and drug use, or do not become aware of the injury until after the fact.

So how bad is the alcohol abuse problem, and should employers be concerned? According to the National Institute on Alcohol Abuse and Alcoholism (NIAAA), nearly 14 million Americans (1 in every 13 adults) abuse alcohol or are alcoholics. Several million more adults engage in risky drinking patterns that could lead to alcohol problems. A study published in *Alcoholism Clinical and Experimental Research* (2007) found that 22 percent of patients admitted to a hospital emergency room had elevated blood alcohol levels. Alcohol not only contributes to accidents, it can lead to medical complications for the patient.

Some research indicates that the after-effects of drinking could create nearly as many problems as being intoxicated at work. A worker who shows up to work hung over can suffer from drowsiness, inattention, poor judgment and delayed reflexes—all of which can increase the potential for accident.

### The Role of a Supervisor

Supervisors play an important role in preventing alcohol use or abuse from leading to a workplace accident. It's not the supervisor's place to diagnose an alcohol problem, but to monitor and review employees' performance, attendance and behavior while at work. If any of these indicate possible drug or alcohol abuse, the supervisor should take the next steps to deal with the problem.

Steps include:

- ✱ Document the problem. Whether you've noticed a drop in productivity, increased absenteeism or problem behaviors, note the specifics in the employee's personnel file.
- ✱ Make a referral to an employee assistance program, if your organization offers one. An employee assistance program can make a confidential diagnosis and referrals to the appropriate resources.
- ✱ Take appropriate disciplinary action. The most effective way to get an alcoholic to deal with the problem is to make the alcoholic aware that his or her job is on the line and that he or she must get help and improve performance and conduct, or face serious consequences, including the possibility of losing the job.
- ✱ Make sure to follow any established company guidelines to avoid accusations of harassment, discrimination or invasion of privacy.
- ✱ Test only with cause. Unless your organization has a published policy of conducting random drug tests, requiring an employee to take a test for suspected drug or alcohol abuse can backfire. An on-the-job accident can create cause for testing... just be sure your employee handbook and employment policies reserve the company's right to test for alcohol and drug use after a workplace accident.
- ✱ Workers' compensation excludes coverage for accidents involving drug or alcohol abuse, so hospitals and physicians are sometimes reluctant to test people with

creased slightly, the percentage of total compensation remained the same.



occupational injuries. Try to get a test whenever an employee goes to the hospital for a work-related injury.

- ✱ Use testing consistently. Testing only certain classes of employees, such as hourly workers or minority workers, can lead to discrimination claims.
- ✱ Follow up. When an employee has an accident involving drug or alcohol use, follow up to make sure he or she has completed the rehabilitation program recommended by a licensed mental health professional. Follow-up and adhering to disciplinary procedures can help you avoid accidents and create a safer, more productive workplace.

For more information on fostering a safer workplace, please contact us. ■

# Minimize Risks to Young Workers

Millions of teenagers will soon be leaving school and taking jobs either for the summer or as the start of their permanent integration into the workforce. Here's what you need to know to protect them.

Last summer, more than half of Americans from ages 16 to 24 years old held jobs, up 2.1 million from the year before. As the economy continues to recover, we expect to see more jobs become available for younger people. These workers can bring energy and enthusiasm to businesses. But they also present a unique set of safety and compliance challenges that every employer should be familiar with.

When hiring workers younger than age 18, employers must keep in mind that state laws place restrictions on the type of work they can do and the number of hours they can work in an effort to protect them.

Teenagers need this protection. It's not just typical teenage behavior that puts them at risk, though that also plays a factor. According to the National Institute for Occupational Safety and Health, young workers carry a greater risk of occupational injury because of their limited job knowledge, training and skill. Physically they are not fully developed and may be more susceptible to chemical and other exposures at work.

Every year, about 67 teenage workers die of work injuries, and NIOSH estimates that 230,000 teenagers suffer from nonfatal occu-



pational injuries.

Prior to hiring any worker younger than 18, you should check both federal and state labor law. State laws vary and should be checked individually.

The main federal law governing underage (and other) workers is the Fair Labor Stan-

dards Act, which applies to virtually all employers and businesses except small farms and a few others. This law bans workers younger than 18 from performing a wide variety of hazardous jobs, including:

- ✱ manufacturing or storing explosives
- ✱ driving a motor vehicle and being an outside helper on a motor vehicle
- ✱ coal or other mining
- ✱ logging and sawmilling
- ✱ operating most power-driven equipment
- ✱ those involving any exposure to radioactive substances or ionizing radiations
- ✱ manufacturing brick, tile and related products
- ✱ operating any power-driven circular saws, band saws or guillotine shears
- ✱ wrecking, demolition or ship-breaking operations
- ✱ roofing and work performed on or near roofs, including installing or working on antennas and roof-top appliances, or
- ✱ excavation operations.

Many states add other restrictions. For instance, in California no one under 18 is allowed to handle, serve or sell alcohol; operate meat slicers, or work as an outside helper on a motor vehicle. Californian workers under the age of 16 may not wash cars, load or unload trucks, work on a ladder or scaffold or work after 9 p.m. (7 p.m. from Labor Day to May 31).

The Labor Occupational Health Program at the University of California, Berkeley has performed extensive research into mitigating the dangers facing youth workers. The program's experts list a number of best practices from the field that help keep youngsters safe.

- ✱ Assign a mentor: A California zoo assigns each new teen worker a “buddy” or men-

tor. This can even be a more experienced teen worker who answers questions, helps give hands-on training and offers safety tips.

- ✱ Role-playing: A retail clothing chain with many young employees uses role-playing regularly at monthly safety meetings. Young workers enact specific health and safety problems and develop solutions.
- ✱ Age by color: A convenience store chain outfits young employees with different colored uniforms based on age. This lets the supervisors know at a glance who is not allowed to operate the electric meat slicer.
- ✱ Track hours: A fast food chain employing some 8,000 young workers in five states developed a computerized tracking system to ensure that teens aren't scheduled for too many hours during school weeks.
- ✱ Add responsibility: A major grocery chain includes teen workers on the safety committee that conducts safety inspections, reviews employee injuries and makes suggestions for prevention.

Finally, don't assume that workers out of their teens have much job experience. Youth unemployment rates have been unusually high for many of the past years, so even workers in their early 20s might not have much work experience. Take extra care to ensure these workers know any safety precautions required for the job, and when possible, pair them with an experienced mentor.

For more suggestions on improving workplace safety, please contact us. ■

## How to Create a “Safety Culture”

**Focusing your safety program solely upon reducing reported accidents and injuries or compliance with OSHA regulations means your safety and loss control program will never be completely successful. You'll be applying all your controls to the tip of the iceberg, while major hazards may lurk unchecked.**

### Why Create a Safety Culture?

Most workplace accidents stem from some type of unsafe behavior: whether it's inattention, improper posture or improper use of safety equipment. Compliance with regulatory requirements alone seldom makes a real dent in your safety record. For example, if you pattern a safety program on OSHA safety and reporting requirements alone, using them as a benchmark to discipline workers who violate them, your safety program will be only tenuously related to safe workplace behaviors and ineffective at reducing accident levels. But creating a “safety culture” that tackles the attitudes, beliefs and values that govern behaviors related to safety—such as what motivates employees to be safe—will lead to an increase in safer behaviors overall.

Creating a corporate safety culture means

investing resources, time and personnel into a vigorous occupational health and safety program that wins cooperation at all levels of the company. It looks at employee motivation by asking questions such as: what do workers get from an investment in safety? What needs do unsafe behaviors serve? Do employees feel responsible for what happens at work? Do they take too many risks—especially in response to management requests for speedier production or to make up for being understaffed? Does the company send conflicting signals by rewarding unsafe behaviors when they raise production and punishing them when they cause injury?

### Persuasion vs. Punishment

Experts say that worker involvement in safety is proportional to the degree of management understanding, involvement and communication. In fact, worker involvement is as critical to your work safety program as it is to the production process itself. Without a genuine interest in working safely, safety manuals, training sessions and videos will have very little effect on employee work methods. Management lip service to safety via slogans, posters and dry safety meetings that don't generate actual improvements in working conditions conveys a lack of understanding and commitment to safety.

But simply punishing unsafe behaviors

won't work either, because the punishments may backfire, leading workers to continue the unsafe behavior while working harder to hide it from supervisors. Punishment can also give rise to frustration and aggression, leading employees who've been punished to reduce output, do substandard work, become careless with products and materials or initiate conflicts with coworkers and supervisors. Increasing rewards and positive reinforcement for safe behavior can help your safety program achieve the results you want.

You can encourage safe behavior through a variety of incentive programs. For suggestions or more information on safety promotion, please contact us. ■



## The Prohibited Acts Doctrine

**U**nder the workers' compensation bargain, the employer agrees to compensate an employee for any work-related injury or illness...unless the employee was engaged in a "prohibited act" at the time of injury.

A prohibited act is an act that the employer expressly prohibits—such as consuming alcohol or using other intoxicants while on the job or on the employer's premises. When an employee conducts this act, the employee is considered to be outside the scope of employment, and therefore not protected by the employer's workers' compensation.

Sometimes it's clear when the prohibited acts doctrine applies—as when a delivery employee is intoxicated and has a car wreck while on his scheduled delivery route. At other times, whether the doctrine applies or not can be a gray area. For example, if an employee on a weeklong business trip has an alco-

holic drink, then trips and breaks her ankle, does the prohibited acts doctrine apply? That could depend on the circumstances—did the injury occur after normal work hours? Did the event occur while the employee was dining with a business associate? In order to apply, the prohibited act should also have a causal connection to the injury. In other words, even if the employee was engaging in a prohibited act, if it had no bearing on the injury (the injury would have occurred regardless), the doctrine might not apply.

When you have a workers' compensation claim that could involve prohibited acts, it's important to get all the facts. A claims adjuster will want copies of any policies, manuals or employment contracts specifying the prohibited act, along with documentation of the incident.

For more information on handling difficult workers' compensation claims, please contact us. ■

# Workers' Comp & Safety News



The information presented and conclusions within are based upon our best judgment and analysis. It is not guaranteed information and does not necessarily reflect all available data. Web addresses are current at time of publication but subject to change. This material may not be quoted or reproduced in any form without publisher's permission. All rights reserved. ©2015 The Insurance 411. Tel. 877-762-7877. <http://theinsurance411.com>. 30% total recycled fiber. Printed in the U.S. on U.S.-manufactured paper.