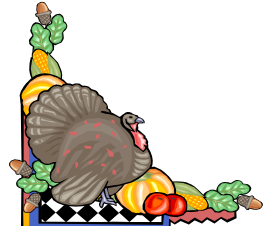




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Happy Thanksgiving!



“Tip of the Month”

Workers’ Compensation Law 2007 – Watch Out for Recent Changes.

The legislature has been worried about the workers’ compensation crisis for quite a while, but has now come up with reforms that could alarm some businesses, especially construction companies.

Workers’ comp is administered by the NH Dept. of Labor through insurance companies like Liberty Mutual. The big problem for the State is that not enough businesses pay into the workers’ comp insurance pool to keep up with the injury claims of the workers. This is due in part to the rule that a business can exempt three officers from coverage. Another big shortfall is caused by the many businesses that claim their workers are independent contractors, not employees. Both of these gaps have been tightened up under the new amendments.

First, the definition of employee at NH RSA 281-A:2 presumes that every worker is an employee and not an independent contractor, unless the employer can prove all of 12 (previously 5) criteria, now including the following 7 added criteria:

- (D) The person hires and pays his or her assistants and supervises their work.
- (F) The person has continuing business liabilities or obligations.
- (G) The success or failure of the person's business depends on the relationship of business receipts to expenditures.
- (H) The person receives compensation for work or services performed and remuneration is not determined exclusively by the hiring party.
- (I) The person is responsible for the main expenses related to the service or work performed.
- (J) The person is responsible for satisfactory completion of work and may be held contractually responsible for failure to complete the work.
- (K) The person supplies the principal tools and instrumentalities used in the work, except that the employer may furnish special tools.

This stricter definition will create some changes in the workplace. Many employers who previously classified workers as independent contractors may now have to change things.

Second, NH RSA 281-A:18-a has been amended to say that any officer of a corporation or any member of a LLC who is actively engaged in on-site work on any construction site cannot be excluded from workers' comp coverage. Thus, the three officers or members previously excluded, if they are actively involved in the construction work, are no longer exempt.

These new rules will affect many NH companies, especially construction companies. The penalties for non-compliance have also been increased.

If you have any questions about how this might apply to your company, please do not hesitate to give us a call at 668-1971 or contact us by email at *mailbox @ biz-patlaw.com*.

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