



Pro-File

Workplace and safety tips brought to you by the insurance specialists at: Power Group Companies.

DID YOU KNOW

According to FreightWatch International, cargo theft in the United States jumped 4.1 percent in 2010 from 2009, with an average of 75 incidents per month. Of 899 cargo thefts, 724 involved a full truckload or container, and 31 were warehouse burglaries.

The average loss value per incident was \$471,200 in 2010, a 17 percent decrease from 2009's \$572,800 loss per incident. Power Group Companies can assist you in securing the right coverage to protect your goods in transit.



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New EPLI-Related State Laws Require Employer Focus on Compliance

Ever-changing legal requirements make remaining in compliance a perennial challenge for employers, who are faced with a growing list of obligations and employee rights that may lead to lawsuits. New laws cover issues including the expansion of prohibited bases of discrimination, leave of absence entitlements and privacy legislation.

Protected category groups for discrimination law were created or expanded in 15 states. Seven new laws added protection for discrimination based on sexual orientation or gender identity, while others prohibited discrimination based

on credit history, military status or the status of being a victim of domestic abuse. States with expanded protected categories include:

- Colorado (gender identity)
- Delaware (sexual orientation)
- Hawaii (credit history)
- Illinois (protective order for domestic abuse status)
- Indiana (emergency response provider status, age changed from 70 to 75)
- Iowa (sexual orientation and emergency response status)
- Maine (sexual orientation)
- New York (victim status of stalking and domestic abuse)
- North Dakota (emergency response provider status)

- Ohio (military status)
- Oregon (whistleblower status)
- Wisconsin (Civil Air Patrol membership)

Further, several states enacted new or expanded privacy legislation:

- Connecticut (electronic monitoring, privacy policies)
- Illinois (biometric information)
- Missouri (microchips)
- New York (documents including social security numbers)

Leave of absence entitlements were expanded in 15 states, including the following:

- Military leave rights (Florida, Rhode Island and Oregon)
- Rights for victims of domestic abuse (Illinois and Washington)
- Parental leave rights (Colorado and Nevada)
- Leave for emergency response providers (Indiana, North Dakota and Wisconsin)

For more information about EPLI coverage, contact Power Group Companies.

Communications Monitoring Presents Potential Liability Exposure

As case law develops, employers seeking to monitor employees' electronic communications – whether on company time or on company equipment – should proceed with caution, experts say.

Employers should consider state laws, which in most cases apply to privacy issues, and federal laws including: the Stored Communications Act, which prohibits clandestine access to electronically stored information; the Electronic Communications Privacy Act, which bans the interception and reception of certain electronic communications; the Wiretap Act, which governs privacy of oral and wire communications; and the National Labor Relations Act, which covers collective bargaining and other employer and employee rights.

Generally if employers are monitoring employee activity over a corporate server and employees are using corporate equipment, the information is fair game, as long as the employer has given notice that there may be monitoring. However, going into personal social network or e-mail accounts accessed on a company computer is where the courts have begun to draw the line, according to attorney experts.

Regulating corporate information shared by employees on public forums and websites is another gray area. Assuming the information in question is not defamatory, it is unclear whether employers have that right. An employer could even violate an employee's free speech rights with adverse action in response to a blog post or other public commentary.

In the absence of developed precedents on the topic, employers should take precautions. Employers monitoring employees' electronic communications should establish a policy that explicitly states employees have no privacy rights in communications on company systems or on equipment purchased and reimbursed by the company. They should reinforce these policies periodically, but always respect the privacy of personal, password-protected electronic communications, avoiding rash reactions to perceived employee criticisms in electronic communications.

For information about coverage for employment practices liability, contact the insurance professionals at Power Group Companies.

Multinationals Under Scrutiny

The Foreign Corrupt Practice Act (FCPA), which prohibits U.S. employers and their subsidiaries from bribing foreign officials, has come into the spotlight as the Securities and Exchange Commission (SEC) drastically increased enforcement actions in 2010, with an 85 percent increase over the previous record set in 2009.



Thus, enforcement is at an all-time high. Directors' and Officers' Liability Insurance (D&O) may have provisions that cover individuals under investigation. Contact Power Group Companies for more information about your D&O coverage.



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