

# What business owners must know about workers' compensation



Workers' compensation insurance protects employers and employees against financial loss in the event of a work-related injury or illness. Employers must continuously carry workers' compensation insurance for their employees. For workers' compensation purposes, employees can include day laborers, leased and borrowed staff, volunteers, part-time workers and family members, as well as most subcontractors. Visit [wcb.ny.gov](http://wcb.ny.gov) for comprehensive workers' compensation resources for business people.

## Who needs insurance?

1. All for-profit businesses who have employees, or workers the Workers' Compensation Board considers to be employees.
2. Employers of domestic workers and home health care aids who are employed 40 hours per week in a residence.
3. Most nonprofit organizations.

## Independent contractors

Important note: Workers under your direct control may be considered your employees for workers' compensation purposes, regardless of their tax status. You may need insurance even for those receiving 1099s.

## Who does not need insurance?

Business owners who do not have any employees, and are sole proprietors, or individuals in partnerships, LLCs, and one- or two-person corporations where the owners own all stock (a share or more each) and hold all corporate offices are not required to have coverage for themselves.

Business owners can always include themselves on a policy. For more complete information, including requirements for business owners serving as subcontractors, visit [wcb.ny.gov](http://wcb.ny.gov).



## Employer responsibilities

When an injury/illness occurs:

- Assist employees with seeking medical care.
- Immediately notify your workers' compensation insurance carrier of any work-related injury or illness. Employers can also notify the Board by filing the *Employer's First Report of Work-Related Injury/Illness (Form C-2F)*. However, this is not required if your claim administrator or insurance carrier has filed an electronic *First Report of Injury (FROI)* timely on your behalf. An employer's failure to timely report a work-related injury to its insurance carrier and the Board may result in a penalty of up to \$2,500.
- Advise your insurance carrier if the injury or illness has caused or will cause a loss of time from work, will require medical treatment beyond ordinary first aid, or will require more than two applications of first aid.

## Why comply with the law?

- Businesses pay a penalty of up to \$2,000 for every 10 days without insurance, as well as penalties for misrepresentation of payroll or employee duties, and failure to keep adequate records.
- Not carrying workers' compensation insurance for more than five employees is a felony. Not carrying insurance for five or fewer employees is a misdemeanor.
- The Board actively pursues offenders with stop-work orders.
- Penalized people and businesses are debarred from public work contracts for one year.
- Business owners who do not have workers' compensation insurance are personally liable for lost wage benefits and the cost of medical care for an employee injured at work.
- Employees generally cannot sue an employer for a work-related injury or illness when the employer is insured.
- Insurers notify the Board when they write, modify or cancel insurance. If coverage is canceled without a replacement policy, the Board will contact the business owner. The employer's insurance status is public information, available on the Board's website at [wcb.ny.gov](http://wcb.ny.gov).

**It is unlawful for an employer to discriminate against an employee who files or testifies in a workers' compensation case.**

**Immigration status is not a factor in receiving benefits.**

## OBTAINING INSURANCE

**Private Insurance:** Hundreds of private insurance carriers are authorized to write workers' compensation insurance policies in New York State. The New York State Department of Financial Services has an Insurance Search function on their website. Please visit: [dfs.ny.gov](http://dfs.ny.gov).

**Public Insurer:** The New York State Insurance Fund is a self-supporting insurance carrier that writes workers' compensation insurance policies in New York State. For more information, visit [nysif.com](http://nysif.com).

**Individual Self-Insurance:** Large employers can set aside reserves for self-insurance, in a formal, regulated process. To learn more, call the Board at **(518) 402-0247**.