



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

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Industry Notice

April 18, 2022

To: The workers' compensation community, employers, and insurance agents

Subject: Coverage requirements for drivers who lease their trucks

This industry notice updates our Dec. 7, 2020, industry notice on the same subject.

Under Oregon law, any person who employs a subject worker must provide workers' compensation coverage for that worker. A subject worker is any person, other than an independent contractor, who provides services for a remuneration and is not covered by a specific exception.

One of these exceptions, ORS 656.027(15), applies to drivers who are employed by for-hire motor carriers and who lease their vehicles. The law provides:

“A person who has an ownership or leasehold interest in equipment and who furnishes, maintains and operates the equipment [is not a subject worker]. As used in this subsection ‘equipment’ means:

“(a) A motor vehicle used in the transportation of logs, poles or piling.

“(b) A motor vehicle used in the transportation of rocks, gravel, sand, dirt or asphalt concrete.

“(c) A motor vehicle used in the transportation of property by a for-hire motor carrier that is required under ORS 825.100 [ODOT] or 825.104¹ [USDOT] to possess a certificate or permit or to be registered.”

On March 24, 2022, the Oregon Supreme Court issued an opinion in [SAIF Corp. v. Ward](#), 369 Or 384 (2022), affirming an earlier decision by the Oregon Court of Appeals². The opinion interprets the term “furnish” as used in ORS 656.027(15).

The court found that to “furnish” a motor vehicle to a carrier, a worker must have the right to possess, use, and control the vehicle for purposes other than providing it to the carrier. The court found that a worker who does not have this right is not covered by the exception in ORS 656.027(15) and is therefore a subject worker, unless covered by another exception.

¹ If you are an interstate carrier required to possess a certificate or permit under ORS 825.104, but you have no fixed place of business in Oregon, your drivers are excepted under ORS 656.027(5) while engaged in interstate commerce.

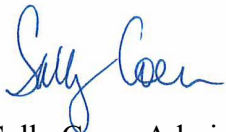
² [SAIF Corp. v. Ward](#), 307 Or App 337 (2020)

If a business is a for-hire motor carrier, and the drivers do not have the right to possess, use, and control their trucks for purposes other than providing the trucks to the business, **then it may be required to provide workers' compensation coverage**. We recommend for-hire motor carriers in this situation discuss coverage needs with an insurance professional.

Noncompliance with workers' compensation coverage requirements could result in substantial penalties. If a business does not have coverage and a worker is injured and files a claim, the business's officers, directors, managers, members, or partners could also be found personally liable for any claims costs, which may not be dischargeable in bankruptcy. For the purposes of penalties and claim costs, a person who is personally liable is not protected by any limits to liability as a shareholder in a corporation or a member in an LLC.

We appreciate your compliance with Oregon workers' compensation law. If you have questions, contact Employer Compliance Manager Kathleen Bruns at 503-947-7665 or email Kathleen.R.Bruns@dcbs.oregon.gov.

Sincerely,

A handwritten signature in blue ink that reads "Sally Coen". The signature is fluid and cursive, with the first name "Sally" and last name "Coen" clearly distinguishable.

Sally Coen, Administrator
Workers' Compensation Division

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