

Commercial Coverages

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You're in the aviation service business. You have an aircraft and/or airport liability insurance policy. That's all you need, right?

Wrong. Being in the aviation service industry does not exempt you from the need for a full risk management package for your business. You have the same needs as any other business. You are just as likely to have an employee lawsuit alleging discrimination as the local widget factory.

Fortunately, a full array of Commercial insurance coverages is available for the aviation service and manufacturing industry. Many aviation businesses may not be aware of coverages available beyond the aircraft or airport liability policy. Why? Most aviation businesses use aviation insurance agencies that do not typically have specialists who deal with Commercial insurance, Employee Benefits, Surety Bonds and other basic insurance needs. Many times, these agencies have little knowledge of insurance outside the narrow niche of pure aircraft and airport liability policies.

As a result, many aviation businesses are never aware of insurance products such as Employment Practices Liability insurance covering employee lawsuits or Employee Dishonesty coverage protecting the company from fraudulent acts of employees.

Many of these coverages focus on the employer/employee relationship. If you have employees (and what business doesn't), you should strongly contemplate the following coverages. You never know when an employee will be injured, disgruntled, harassed, dishonest or just in the wrong place at the wrong time in one of your company cars.

So that we can give adequate attention to these topics, we'll divide them loosely into liability coverages, which we'll discuss in this article, and property coverages, which will be addressed in future articles. We will focus on:

Workers' Compensation
Employer's Liability
Employment Practices Liability
Employee Dishonesty

Commercial Automobile coverage
Property coverages:

Business Income
Business Personal Property
Equipment Breakdown
Extra Expense
Ordinance or Law
Pollution Liability
Real Property (Buildings)
Transit coverage

Workers' Compensation & Employers Liability

What is it? Workers' Compensation (Work Comp) pays for medical bills, lost wages, physical rehabilitation, and disability payments if an employee is injured on the job. Work Comp will also pay life insurance benefits to dependents of an employee who is killed in the course of employment. Work Comp pays regardless of fault. Even if the employee's own negligence contributes to the accident, Work Comp will still pay benefits.

Example: Your paint shop employee is careless and doesn't wear safety glasses while painting. If paint gets in the employee's eye, Work Comp will still pay benefits even though the claim could have been avoided had he or she simply worn the protective goggles.

Workers' Compensation also pays defense costs in the form of Employer's Liability coverage. This coverage is included in Work Comp policies at no additional charge. It pays the cost to defend lawsuits filed against the employer by an employee or his or her family.

Example: In the same scenario, if your employee decides to sue you for having a hazardous working environment, even if the claim is groundless, Employers' Liability coverage will pay the cost to defend you in court.

Why you need Work Comp:

- It is required by law in all fifty states.
- If you don't carry Work Comp coverage and have a claim, you are subject to paying benefits out of pocket and being fined by the Department of Labor.
- The liability sections of aircraft and airport liability policies universally exclude protection for injuries to an insured's employees occurring during the course of employment.
- Employer's Liability pays to defend lawsuits brought against your company by employees or their families.

Workers' Compensation is often thought of by those responsible for making payroll as a "necessary evil." In the aviation world, many will categorize their employees as independent contractors or contract pilots in an attempt to avoid buying Work Comp coverage. In reality, Work Comp is one of the least expensive insurance coverages a business owner can buy. One of the most vulnerable areas of business is the injury to a worker. In most cases, a small annual premium can give the employer a significant level of protection.

Limited market: Aviation Work Comp exposures can be very difficult to insure, with only three aviation insurance carriers offering quotes. Since the insurance market is so

restricted, the carriers are allowed to be selective, per the law of supply and demand. If your business is tagged as a high-risk profession, has an excessive claims history, or has too few employees, you may not be able to obtain Work Comp insurance through an aviation insurance carrier. What happens then?

Assigned Risk: All states have a means to provide Work Comp coverage for companies that cannot find insurance elsewhere. In most cases, this is the assigned risk pool (also known as the state fund in some states), which is the “last resort” in Work Comp coverage. You want to take measures to stay out of the assigned risk pool since premiums can be higher and customer service may be poor.

Note: Workers’ Compensation benefits are statutory by state, and coverages issued are standard within each state. Job positions are classified and coded, and a rate is assigned for each code. In plain English, this means that you can’t “shop” Work Comp quotes – rates are not negotiable. Since you’re on a level playing field premium-wise, you should select an insurance agent who has experience in placing Work Comp coverage and is familiar with the additional peculiarities of Aviation Work Comp.

Employment Practices Liability (EPL)

Business owners must make difficult decisions every day. Sometimes the results of these decisions are good. Sometimes they’re not. Employment Practices Liability coverage relates to business decisions and their effects, both real and perceived.

What it does: This coverage offers protection for employers if a current, former or prospective employee sues the employer for discrimination, sexual harassment, wrongful termination and other employment-related issues. EPL coverage responds in two ways:

- Pays the cost to defend the lawsuit. Even if the employee’s claim is groundless or fraudulent, defending the suit can be very expensive.
- Pays the settlement if the employer is found liable for discrimination, sexual harassment, wrongful termination or other employment-related issues.

Example: You own a flight school and employ several Certified Flight Instructors (CFIs). You discover that one of your CFIs is in the habit of drinking alcohol before climbing into the cockpit to instruct. You terminate the CFI. The safety of the flight school students, people on the ground, and the CFI is jeopardized when the CFI is in the cockpit while intoxicated. Sounds like a valid reason for dismissing someone, right? Well, the CFI thinks he’s been wrongfully terminated (“I wasn’t that drunk!”) and files suit against you. Even if the CFI doesn’t have a leg to stand on, your Employment Practices Liability will pay for defense costs.

Employee Dishonesty

On the flip side, it may be an employee's actions that result in financial or property loss for the employer. Losses due to employee dishonesty can be minimized by implementing internal controls and having Employee Dishonesty coverage to protect company assets.

What it is: An employer's financial loss of money, securities and property due to fraudulent activity of employees. Examples of employee dishonesty include altered invoices, pocketed cash sales, falsified expense reports, and physical theft of property.

Example: Your company pilot is responsible for a high value piece of equipment. What happens if your pilot really "takes off" in your airplane – never to be heard from again? Think it's simple theft, and would be covered by your aircraft policy? Think again. Most aircraft insurance policies state "We will not pay for physical damage if anyone to whom you give possession of the aircraft embezzles, converts or secretes it." In other words, if your employee pilot flies off in your aircraft and disappears, it is not a theft. It is conversion by a permissive user and it is not covered under an aircraft policy.

Something as extreme as the theft of your aircraft may never happen to you, but theft or embezzlement even in small amounts can be detrimental to your bottom line. Perhaps your dishonest employee steals tools or parts to sell to friends. Maybe he or she accepts cash payments and pockets the money. You could have an accounting employee who creates a system of fake invoices, payments, and bank accounts to embezzle money for personal use. Whatever the scenario, a dishonest employee costs your business money.

There is indeed a full array of property and casualty products available to business owners, and this is by no means a catalogue of all available Commercial insurance coverages. If a person can have a financial interest in something, chances are it can be protected by an insurance policy or endorsement. There are policy endorsements for anything ranging from Alcoholic Beverage Market Value to Molten Material to Trees, Shrubs and Plants.

While it is not cost effective to buy insurance for every possible scenario, it is smart to buy it for those that are likely to result in substantial financial loss. An effective insurance agent will be able to help you determine the areas in which you are most at risk for financial shortfall, and identify the coverages you need that are specific to an aviation business.

In the spring 2006 issue of *Aviation Insurance & Risk Management*, we'll continue our discourse on Commercial insurance coverages with a focus on property insurance. →