

NEW WISCONSIN LAW INTENSIFIES NEED FOR EPLI COVERAGE REVIEW

Your client, a Wisconsin business, tells you they are being sued for employment discrimination in a Wisconsin court. You tell them, "No problem — you have an Employment Practices Liability rider on your Package policy."



BUT: There could be a problem. Under provisions of Senate Bill 20 that was recently signed into Wisconsin law, complainants in eligible discrimination cases may be awarded additional damages in Wisconsin state courts. Previously, complainants in eligible cases were entitled only to indemnification for items such as attorney's fees, back pay, or reinstatement. Under the new law, Wisconsin complainants may ALSO seek Compensatory AND Punitive Damages for protected classes designated in Wisconsin law. In some cases, these damages are not available under federal law, but Wisconsin law now allows them. Also, Compensatory Damages can include future monetary loss, emotional distress, and other items that go beyond indemnification. As a consequence, many expect employment practices litigation to increase in Wisconsin. Defense costs will likely increase.



Examples of potential claimants include convicted felons, who are protected under Wisconsin law. For instance, if a felon alleges discrimination after being rejected for employment, the business doing the hiring could be subject to the terms of this new law.

It is now important for your Wisconsin business clients, particularly those with more than 15 employees, to review their Employment Practices Liability exposure. While there are caps on the limits awards depending on the size of the business (e.g. \$300,000 for more than 500 employees, \$50,000 for 100 or fewer employees with a minimum threshold of 15, etc., with defined guidelines for counting short-term employees in the totals), Punitive Damages can now be assessed. Also, lawsuits without the above monetary caps can still be brought against businesses under federal law. *Does your client's Employment Practices policy include Punitive Damages? Is defense inside or outside of the limits? Are the limits dedicated to Employment Practices coverage only, or shared within the General Liability limits?*

The underwriters at R.W. Scobie Group have many years' experience placing Employment Practices Liability coverage on behalf of independent insurance agents. They are happy to help you offer the coverage your client must consider in the current economic and legal climate.

CONTACT YOUR R.W. SCOBIE OFFICE FOR FURTHER INFORMATION

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