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A Compliance Check Newsletter

Why Employers Should be Concerned about Impaired Driving

Employers have a vested interest in preventing the devastating consequences of impaired driving for a range of reasons in addition to improving the quality of life in the community in which they operate.

Each time an employee is involved in an impaired driving crash, businesses pay in the form of increased absenteeism and use of health care benefits. According to the National Highway Traffic Safety Administration, the annual employer cost of motor vehicle crashes in which at least one driver was alcohol-impaired is more than \$9 billion, including wage-risk premiums.

Furthermore, if the employee caused the crash or is arrested for impaired driving even if a crash did not occur, administrative and legal procedures such as court time and traffic school may require further time away from work. Certainly no employer can deny the emotional difficulty and decreased morale employees experience when a colleague suffers from a severe injury or dies - two unfortunate, but not uncommon, outcomes of mixing alcohol and driving.

Depending on the nature of their business, some employers may have additional incentives to ensure their employees are educated about the dangers of impaired driving because of potential legal vulnerabilities. For example, employers whose businesses serve or sell alcohol may be held liable if an individual consumes alcohol at their establishment and subsequently causes a crash.

Employers who have employees who drive as part of their job such as couriers, delivery persons and sales representatives may also be subject to legal action if an employee who is driving while impaired causes a crash while conducting business. Furthermore, these employers have to take into consideration the costs of insuring and maintaining company vehicles, as well as the time managers spend taking care of these procedures. When it comes to employer-sponsored impaired driving prevention, the return on investment is considerable when compared to the financial burden caused by just one crash, especially for small businesses.

Regardless of the nature of their business, all employers run a risk if they serve alcoholic beverages at office celebrations and other company-sponsored events because they may be held liable if a person causes a crash subsequent to consuming alcoholic beverages at such an event. To protect themselves and their employees, employers can send employees a safe and sober message about office parties and drinking.

The good news is that employers have enormous power to protect their businesses from the negative impact of impaired driving by educating employees about its harmful effects and supporting efforts to prevent it in their communities. By doing so, employers do more than just safeguard their business assets, they contribute to the nationwide campaign to eliminate a devastating and preventable crime and play a part in making their communities safer for their friends and families and those of their employees.

The Focus

Nine Tips for Office Celebrations

1. **Be honest with employees.** Make sure your employees know your workplace substance abuse policy and that the policy addresses the use of alcoholic beverages in any work-related situation and office social function.
2. **Post the policy.** Use every communication vehicle to make sure your employees know the policy. Prior to an office party, use break room bulletin boards, office e-mail and paycheck envelopes to communicate your policy and concerns.
3. **Reinvent the office party concept.** Why have the typical office party? Try something new like an indoor carnival, group outing to an amusement park or volunteer activity with a local charity.
4. **Make sure employees know when to say when.** If you do serve alcohol at an office event, make sure all employees know that they are welcome to attend and have a good time, but that they are expected to act responsibly.
5. **Make it the office party of choice.** Make sure there are plenty of non-alcoholic beverages available.
6. **Eat...and be merry!** Avoid serving lots of salty, greasy or sweet foods which tend to make people thirsty. Serve foods rich in starch and protein which stay in the stomach longer and slow the absorption of alcohol in the bloodstream.
7. **Designate party managers.** Remind managers that even at the office party, they may need to implement the company's alcohol and substance abuse policy.
8. **Arrange alternative transportation.** Anticipate the need for alternative transportation for all party goers and make special transportation arrangements in advance of the party. Encourage all employees to make use of the alternative transportation if they consume any alcohol.
9. **Serve none for the road.** Stop serving alcohol before the party officially ends.

EEOC and Chase reach \$2.2 Million Settlement in Disability Discrimination Claim

The U.S. Equal Employment Opportunity Commission (EEOC) and JPMorgan Chase & Co. (Chase) recently announced the \$2.2 million settlement of a claim brought under the Americans with Disabilities Act (ADA) against Bank One Corporation.

The EEOC issued an administrative determination on March 11, 2004, finding that there was reasonable cause to believe that Bank One violated the ADA by failing to properly accommodate a group of employees who were medically released to return to work after leaves of absence exceeding six months. Bank One automatically protected employees' jobs when employees went on a leave of absence for less than six months. However, for employees who went on longer leaves of absence, the EEOC found that Bank One violated the ADA by terminating some employees without first attempting to determine on an individual basis whether they required additional job protection or other accommodations because of a disability.

As a result of the settlement, the merged company will distribute \$2.2 million among 222 individuals who went on a long-term disability (LTD) leave of absence from Bank One and whose employment was ultimately terminated. Chase will also reinforce its policies to individually assess whether a disabled employee on a disability leave of absence should receive additional job protection or other accommodations. Chase will provide training on the ADA and its revised policy to all managers, human resources professionals, and employees of its Disability Management Services department.

During its investigation, the EEOC found that Bank One's policy permitted employees who returned from short-term disability within six months to return to their jobs. Employees who required more than six months of disability leave, however, were not guaranteed to return to their previous position. If their position had been filled, employees who were released to return to work after more than six months of disability leave had thirty days to find other positions within Bank One or were terminated. The ADA requires that employers individually assess whether or not additional leave will assist employees with disabilities in returning to work without placing an undue hardship on the company.