



September 19, 2003

EMPLOYEE NOTIFICATION FORM - IMPORTANT FARM LIABILITY ISSUE

First of all, I would like to wish everyone a safe harvest this fall. Farming is the most dangerous occupation in Nebraska and at harvest time everyone needs to remember to take extra safety precautions on roadways and with working in and around harvest equipment.

Nebraska has a new law that every farmer and farm employee needs to become aware of. There is now a huge change in liability for workers' compensation unless farmers get the proper form signed with their employees. Bob Cockson, an insurance agent in Friend, explained this to me last week and I appreciate the "heads up" on an important liability issue for area farmers. Let me explain further.

Before August 31, 2003, farmers were exempt from workers' compensation insurance regardless of farm size. Now that has all changed. Effective on this date, workers' compensation insurance has become a requirement for larger operations, including feedlots, that employ 10 or more people. But what is catching many Nebraska farmers by surprise is the fact of a new notification requirement. If a farmer has fewer than 10 people employed, and does not provide workers' compensation insurance, the farmer must formally notify employees the employee is not covered by workers' compensation insurance.

The failure of the farm employer to notify an employee about workers' compensation insurance could be a large mistake. There is now an increased liability. The current law says failure to provide notice subjects an employer to liability under the Workers' Compensation Act for all unrelated employees.

Let me try to explain. Let's say you hire a teenager to cut thistles on your farm. No formal notice of workers' compensation insurance was given. The teenager lost a finger as a result of cutting tall thistles when using a corn knife. The employer is liable to pay all medical and disability expenses as required by the Workers' Compensation Act. Even though there may be no insurance to cover this, you are liable because of no formal notice on insurance at the time of hire as the new law requires. A written notification form signed by the employee does not eliminate all liability, but at least as an employer, you have first base covered.

Who are related and unrelated employees? According to the law, related employees are as follows: A spouse of an employer and an employee related to the employer within the third degree by blood or marriage. This includes parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, uncles, aunts, nephews, nieces, and spouses of the same. Hopefully you do not need to formally notify relatives that you lack workers' compensation insurance. (There is a gray area in the text of the law whether all relatives employed need to sign a form or unrelated employees. For sure, it appears unrelated employees are required to be notified.)

The law does say specifically, "Failure to provide the notice required by this subsection subjects an employer to liability under and inclusion in the act for all unrelated employees on the basis of



failure to give such notice." Therefore, you could be liable in the event of a claim AND be required to provide workers' compensation coverage for unrelated employees. Even if you hire just one employee, you are subject to the new notification law effective August 31, 2003.

Have your part time and full time employees fill out a form that is on the front page of our Saline County Extension website at <http://www.saline.unl.edu> If you do not have Internet, go to your city library or stop by our office in Wilber. You can also phone us at 821-2151 and we will supply you with one. This form was developed by the Nebraska Farm Bureau. You may have received a mailing from your insurance agent or from a farmer organization also. The important part is this. Get them signed by your unrelated employees immediately. For more information, contact your family attorney, insurance agent or go to the website: <http://www.state.ne.us/home/WC/new/p06-27-03.htm>

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