

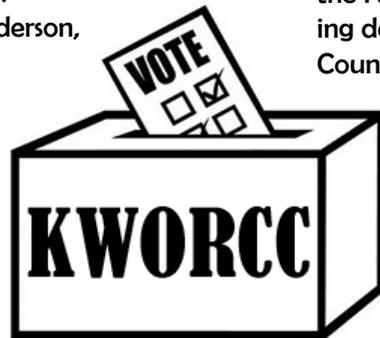
KWORDS *from* KWORCC

KWORCC Business: Annual Meeting

KWORCC will hold its 2017 Annual Meeting at the Kansas Association of Counties conference in Overland Park, Kansas on November 14, 2017. Our meeting will start at 5:30 PM in Cottonwood 1 at the Overland Park Sheraton. It is important that each county member nominate a delegate and alternate to attend the meeting. In addition to reporting on the pool status, the county representatives will be asked to elect trustees to sit on the KWORCC Board from the members listed in the following districts:

Southeast District: Allen, Anderson, Bourbon, Chautauqua, Cherokee, Elk, Franklin, Greenwood, Linn, Miami and Neosho;

North Central District: Clay, Cloud, Dickinson, Ellsworth, Geary, Jewell, Lincoln, Marion, Mitchell, Ottawa, Republic and Saline;



South Central District: Barber, Comanche, Cowley, Edwards, Harper, Harvey, Pawnee, Reno, Rice, Rush, and Stafford;

Northwest District: Decatur, Ellis, Gove, Norton, Osborne, Phillips, Rawlins, Russell, Sheridan, Sherman, Smith, Thomas, Trego and Wallace.

Forms for delegate selection and Board of Trustee nominations have been mailed to the county members with the Notice of Annual Meeting. If you have questions regarding delegates or board nominations, contact KWORCC Staff Counsel, Dortha Bird: 1-877-357-1069; dorthabird@kworcc.com.

Visit KWORCC at booth #54 for Kansas Association of Counties 42nd Annual Exhibition Vendor Showcase. Stop by to discuss your workers compensation pool and pick up some give-away items. We look forward to seeing you there.

Multi-Employer Safety Violations

By Brandon Mann, KWORCC Loss Prevention Specialist

Due to the unique nature of construction sites and the presence of multiple employers operating simultaneously, OSHA began citing multiple employers at a construction site for a single violation of safety regulations under 29 CFR 1910 and 29 CFR 1926. OSHA began citing multiple employers at construction sites in 1994, then slightly revised their position in 1999 due to a legal challenge and a ruling by an appellate court. This revised position was published in December 1999 in OSHA's Field Inspection Reference Manual, and again in 2011 in OSHA's Field Operations Manual.

OSHA identifies four different types of employers: 1) the creating employer, 2) the exposing employer, 3) the correcting employer and 4) the controlling employer. The creating employer is the employer that creates the hazard for which the citation has been issued. The exposing employer is the employer that exposes their own employees to the hazard. The correcting employer is the employer that is responsible for correcting the hazard. The controlling employer is the employer that has ultimate authority over the construction site, including the ability to direct others to correct hazards when they are identified.

This could be a problem for county governments, because when hiring one or more contractors to do a job and no clearly defined general contractor is overseeing the operation, the county may be viewed by OSHA as the controlling contractor.

A prime (general) contractor can be responsible for the

actions of its sub-contractors, both through OSHA violations and associated fines, and for legal liability for the sub-contractor's actions. Because of this, it is imperative that the prime contractor thoroughly screen all sub-contractors before hire. The screening process should be a written program that identifies all requirements of sub-contractors, including: insurance, safety and health programs, training, employee certifications, safety organization involvement, licenses/permits/bonds, and references. The prime contractor should also review the OSHA 300 log, OSHA citation history, and discrimination claims history of all sub-contractors.

When a sub-contractor does something that creates a hazard, exposes employees to a hazard, or fails to correct a hazard, the controlling employer (prime/general contractor) is not automatically cited by OSHA under its multi-employer citation policy. Instead, OSHA requires that the controlling employer exercise reasonable care to identify and correct hazards. This subjective standard of reasonable care is less than the standard of care that an employer takes with the safety of their own employees, and would require the controlling employer to inspect for hazards with less frequency than they would to provide for the safety of their own employees. The reasonable care standard also considers that the controlling employer may not have the same technical expertise as the sub-contractor that they hired, and would not be expected to be able to identify hazards of a technical nature.

KWORCC

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CLAIMS REPORTING

To submit a claim online, go to www.tristarrisk.com and select "report a claim". To call in a claim: 1-855-495-1554. Questions on claims should be directed to Amanda Chamberland: 1-844-702-2353 Amanda.Chamberland@tristargroup.net

TRUSTEES

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Warning: A Deer Could be Near

Our four-footed friends travel on Kansas roadways, too. Unfortunately, they don't share the roadway well. So, it's up to us to watch out for them.

Large animals, like deer, can do thousands of dollars of damage to the front of a vehicle, and if they should come up onto the hood and through the windshield, their sharp hooves can cause serious injury to drivers and passengers, as well.

Deer are a danger year round. (They are THE major cause of crashes on Kansas roads!) But be especially alert in November, which is mating season. Most accidents occur at dawn and dusk.

Where are you most likely to see deer?

- Creek bottoms and heavily wooded areas. Open fields, foraging for food. Prime time for deer movement is at dawn and dusk. Scan roadsides and ditches for deer during those times.

- One deer frequently means more deer. Deer often travel in herds, so when one crosses the road, others may be waiting to cross.

What should you do?

- When confronted by an animal in the road, our first instinct is to swerve to avoid it or to slam on our brakes. Both actions can cause the car to skid or go out of control, resulting in severe injury to the driver and other car occupants.

- If you see deer, or other animals ahead, stay in your lane and decelerate carefully. Swerving to avoid deer can do more harm than good.

- Deer can often jump onto the road so quickly that a driver has little or no time to react. So, the best defense against deer is defensive driving. Know their habitats and habits.

Anticipate.

- Where "Deer Crossing" signs are posted, be especially careful. Vehicle speed is a significant factor in deer-related crashes, so slow down.

FAST FACTS

- Forty-four percent of deer crashes consistently occur during three months: October, November and December.

- Don't rely on passive vehicle devices like deer whistles. They're not reliable. Remember, YOU are the best deer detector. So, keep an eye out for deer. Being more alert to the possibility of confronting obstacles in the road will go a long way toward making Kansas driving safe not sorry.

Focus on Claims: Required Form KWC 27-A, Are You Giving To Your Employees?

When a workplace injury occurs the employer is required by the state to provide each employee a copy of form KWC-27A at time of the occurrence. The KWC-27A form will help the employee understand their rights under worker's compensation such as the unauthorized medical allowance, reporting guidelines, and the weekly benefits for lost wages. Another advantage of the form is that it provides the contact information for the adjusting company and adjuster so if there is ever cause for concern the employee knows where to turn. We recommend providing the form, even in cases of record only claims, so if treatment is sought at a later time the form is not forgotten. If you need additional KWC 27-A forms please contact your adjusters Amanda Chamberland or Andrea Neff and we will be glad to send them. The form may also be found on the KWORCC website at <http://kworcc.com/Forms/KWC27-A.pdf>

KWORCC Learning Center

Safety awareness and safety training are a large part of keeping your employees safe. Regular safety meetings (KWORCC recommends once a month) can be used to show videos from the KWORCC Safety Video Library as well as to discuss housekeeping and timely safety topics. Additionally, individual employees can take online courses through Gov-U (contact Spencer Howard at showard@localgovu.com or 866.845.8887 to set up an account if you don't have one) and the KWORCC Loss Prevention Staff is available for on site, in person group training.

Gov U Classes

- Work Zone Traffic Control 101
- Work Zone Traffic Control 102
- Workplace Ergonomics
- Personal Protective Equipment 101
- PPE 102
- Emergency Preparation and Egress
- Bloodborne Pathogens
- Lockout/Tagout
- Lockout/Tagout 102
- Chemicals and MSDS
- Dealing with Stress
- Violence in the Workplace
- Workplace Bullying
- Workplace Harassment
- Active Shooter 1
- Active Shooter 2
- Active Shooter 3
- Active Shooter Ambush Awareness and Preparation
- Active Shooter: Recognition and Basic Response
- Basic Firearm Safety
- Chainsaw Safety Update
- Dealing with Cold Stress
- Excavation 101
- Excavation 102
- Global SDS and the Hazardous Communication Standard
- Guide to Temporary Traffic Control in Work Zones 102
- HAZMAT: First Responder Awareness Level 1
- Investigating Incidents for local government
- Snow and Ice Management
- Work Zone Safety for local Governments

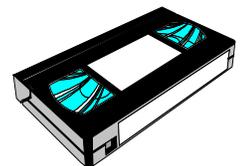
Selected Video Learning

Most of the safety videos are available only on VHS. However, all videos with a number of G-106 and higher are available on DVD. The KWORCC staff is working to get popular topics on DVD. If you have a particular topic you would like to see us carry on DVD, please email Nicole at nicole@kworcc.com.

A complete list of available videos can be found on the KWORCC website.

Suggested video library selections:

- G-4 Respirator Safety
- G-56 Ladder Safety
- G-91 Fall Protection
- G-106 Slips, Trip and Falls



On-Site Training Suggestion: Winter Driving

By Carl Eyman, Loss Prevention Manager

It's October 9th and I heard on the radio that it is 25 degrees in Denver and a winter watch has been set. It's time to make sure that blades are ready and that the spreaders have been calibrated. There is nothing worse on machines than those cold winter days. The machines take a beating and require constant maintenance.



By the way, are you personally ready? Do you have the correct clothing on hand in case it's needed? You can go from a warm cab to zero degrees at any time. Make sure that you have clothing available to handle both.

Training for winter driving is available to member counties which includes selection of proper clothing and maintenance of equipment. Please contact your KWORCC Loss Prevention Specialist for a training date.

Legal Detail: “Accident” - Part 4

by Dortha Bird

This article details recent guidance from the Kansas Court of Appeals concerning whether an unexplained fall was an “accident” covered by the Kansas Workers Compensation Act (“the Act”). As to the exclusion under the Act of idiopathic cause to the “arising out of employment” requirement of the term “accident,” the Court stated that under the Act, the word “idiopathic” is best defined as “personal or innate to the claimant.” Further the Court stated that an unexplained fall is a “neutral risk,” not compensable under the Act simply because it occurs at work. However, in the circumstances of this case, the claimant was required to take a route to the work space that involved going up and down industrial stairs. This constituted an increased risk that satisfied the causal connection between the fall and his employment, thus placing it within the definition of an “accident” under the Act.

Therefore, under the Act, if a fall at work is due to something personal or innate to the claimant (idiopathic) or if there is nothing about the job that increased the risk of falling at work, there would NOT be an “accident” and thus not compensable. However, if there is something about the work area that increases the risk of falling – even though the cause is otherwise unknown, it may be deemed a compensable accident under the Act.

The opinion is Graber v. Dillon Companies, 52 Kan.App.2d 786, 377 P.3d 1183 (2016).

2017 Board Meeting Dates

- X January 26th
- X February 23rd
- X March 23rd
- X April 27th
- X May 18th
- X June 22nd
- X July 27th
- X August 24th
- X September 21st
- X October 26th
- November 14th – Annual Meeting
- December 14th