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Insights for Your Industry™ — **Restaurants**

PROTECTING YOUR PROPERTY

Two Occasionally Overlooked Insurance Needs of Restaurants

It is highly unlikely that any business owner, including a restaurant owner, would operate without property and liability insurance. It is also true that most business owners view business interruption coverage as vital if they want to recoup lost income in the event of a serious property loss that shuts down their business. But there are other important insurance needs that some restaurant businesses, particularly smaller operations, may not believe are essential, but could cost as much or more than a typical property or liability claim. This article identifies two of those insurance needs and describes why they should be seriously considered in creating the restaurant's insurance program.

Equipment Breakdown Insurance

Equipment breakdown insurance covers the insured for loss by accidents caused by the breakdown of mechanical, electrical, and production equipment, as well as explosions of steam boilers. Loss of business income and extra expenses incurred as a result of the equipment breakdown is often covered as well.

Certainly larger restaurants and those with commercial cooking operations need to ensure that their equipment is covered due to a malfunction or breakdown. But virtually all restaurants rely on refrigeration equipment, such as walk-in refrigerators and freezers, ice makers, beverage coolers, etc., and are exposed to serious spoilage losses in the event this equipment malfunctions.

In addition, the electrical exposure, in particular, has grown tremendously in recent years as business firms, including restaurants, have become more automated and integrated through electronic networks. Even small restaurants have become dependent on computer networks and other forms of electronic equipment to store customer account information



or for inventory management. In addition, restaurants rely on scanners, fax machines, card readers, and other computer equipment to run their businesses. The equipment is exposed to power surges, short circuits, and other electrical disruption that can cause serious losses.

It is important to note, too, that standard commercial property insurance policies contain exclusions for electrical disturbance, mechanical breakdown, and steam boiler explosions.

Aside from the damage or loss to equipment, the loss of revenue and the temporary loss of customers until the operation fully recovers can be extensive. Some restaurants might opt to rely on equipment maintenance contracts as an alternative to equipment breakdown insurance. The risk in doing so is that maintenance contracts rarely, if ever, offer protection for loss of use of the equipment. Hence, to minimize what otherwise could result in an extensive loss, restaurant owners need to give serious consideration to equipment breakdown insurance.

Employment Practices Liability Insurance

Employment practices liability insurance (EPL) was developed in response to a growing number of employment-related

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lawsuits and, some contend, the accompanying media attention that they generated. These cases created a new consumer awareness of wrongful employment practices that spawned a blaze of claim and litigation activity.

EPL insurance provides coverage for claims made against a business by employees as a result of wrongful employment practices including: wrongful termination; unlawful discrimination by race, gender, or age; sexual harassment; retaliation; employment-related defamation; and personal injury caused by infliction of emotional distress and humiliation, to name several. In addition, employers are subject to a variety of federal, state, and municipal laws that deal with employment situations.

Restaurants are certainly not immune from such claims. Employment related claims against restaurants have involved violations of the Fair Labor Standards Act over wages and hours, sexual harassment of employees, and racial discrimination, among others.

Size doesn't matter

Businesses that can least afford to pay claims out of their own pockets are often the most reluctant to buy EPL coverage. Small to medium-sized restaurants are vulnerable and litigation costs to defend a lawsuit, which larger restaurants or chains may be able to absorb as a business expense, can financially devastate a smaller restaurant. Many restaurant owners may have the mistaken impression that they run a friendly business that is staffed with congenial employees who would never sue their employer. Experience suggests otherwise. Lawsuits by a disgruntled employee for a variety of employment-related reasons can and do



happen, and even when the claim is without merit, it still must be defended. It is important to note, too, that coverage for employment-related claims is excluded under general liability insurance. Consequently, a specific endorsement covering this exposure is necessary.

The cost of the coverage depends on the number of employees, the deductible selected, and other risk factors such as loss history, turnover rate, and training. Higher deductibles can reduce the cost of the insurance.

The safe approach for restaurants, small or large, is to discuss their exposure to employment-related claims with their agent, and to compare the cost of this insurance with the potential cost of doing without the coverage.