On April 4th this blog reported that Governor Bev Perdue was on the warpath to improve the compliance rate for businesses that are required to purchase workers compensation insurance but don't currently do so. This law has been in place since the 1930's but has never been much enforced. That is all changing and now with high power jobs on the line at the NC Industrial Commission, we are seeing swift and certain action. If you are still trying to avoid buying a workers compensation policy for your restaurant, your time is running out and your risks are going up. And those risks now include jail time.

The NC Industrial Commission has the power to require proof of work comp insurance coverage from businesses operating in the state. The commission has never enforced this power and has in fact relied on the NC Rate Bureau to tell them who is insured. In NC it is estimated that there are tens of thousands of business who are operating without workers compensation insurance in violation of the law. And while the commission is starting with those who have outstanding claims, they will soon be turning their attention to those who don't have a policy but have not had a claim filed against them yet.

The law states that if you don't buy as workers compensation insurance policy and one of your workers is injured, then you stand in the place of the insurance company and you are responsible for paying the claim yourself. In practice this has meant that many uninsured claims have gone unpaid. Business owners have even filed bankruptcy to avoid paying an injured worker. The new message from the Industrial Commission is pay up or go to jail. More than a dozen business owners with outstanding claims have been contacted by the industrial commission to report to a hearing on May 22 to settle outstanding claims. Officials now say that law enforcement will be sent out to arrest those who don't show up for the hearing. In addition, about 125 uninsured employers who have ignored the commission's earlier request to pay claims will be called back as well.

The NC Industrial Commission has now requested that the NC Rate Bureau send them a report any time that a workers compensation policy has cancelled. They can then either verify that the coverage was replaced, the company no longer has enough employees to be required to carry the coverage, or that the employer is in violation of the law. Despite this first step, Chairwoman Pamela Young indicates that there are still difficulties for the Industrial Commission in finding the businesses that are breaking the law by not purchasing a workers compensation insurance policy. That said, I think it is just a matter of time until all businesses will have to prove they have coverage on a regular and consistent basis, just as drivers have to prove that they have auto insurance in place.

One thing is certain, the NC Industrial Commission now has in place a contempt process to put offenders in jail. With that in place the next step is to locate the offenders. If you have been avoiding purchasing workers compensation for your restaurant, you should know that it is starting to look like the risks are now not just financial for you; your very freedom could be at risk.

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