

[Employment Practices Liability Insurance](#) is a relatively new form of insurance designed to protect the employer from lawsuits against the restaurant coming from employees, including current, former and prospective employees. These claims can arise from discrimination, invasion of privacy and even whistleblower retaliation type claims. The scope, nature and incidence of these types of claims is on the rise and feeding a whole new generation of attorneys and their families. The risks for a restaurant owner are huge and growing all the time. So why do so few restaurant owners purchase EPL Insurance?

There are a number of reasons why restaurant owners are missing this exposure in their risk management process. Many of these reasons come down to them not understanding the true nature of the risk. Let's take a look at those first.

Many restaurant owners tell me that they don't really think the risks apply to them. They tell me that they are meticulous in their hiring practices and that they treat their employees better than anyone else does. As such, they feel that they would never face a lawsuit of this type. This kind of thinking skims over a couple of risks that they face, even if all of the above is true. One is that while they may be meticulous about whom they hire, they may not understand all the dos and don'ts of what they can say and what they can ask in the interviews and hiring process. This is one area that can lead to trouble. But, assuming that you get past the hiring process with no problems, you may still face risks due to the way one employee treats another at your workplace. Your managers may engage in sexual harassment or subtle forms of discrimination without your knowledge and these behaviors could result in claims against you and your restaurant.

Another reason for not buying this an EPLI policy is that some think that the cost of these claims is relatively low and that they will self insure this exposure. I think this kind of approach is more like sticking one's head in the sand than sound risk management. The average size of EPL claims is rising every year. From 1994 to 2006 the average jury award on these claims has risen from \$93,000 to \$200,000. Today the median award amount is well over \$200,000. And remember, this does not include the legal defense costs which can run well over \$60,000 per claim. Again these are just averages, obviously some claims far exceed these numbers. If you are truly self insuring as opposed to sticking your head in the sand, then you should probably keep \$1 million or more in the bank ready for this type of claim.

Many restaurant owners simply consider EPLI to be an optional coverage. Now these same business owners would never consider self insuring their general liability insurance. Consider

that there are more employment practices liability actions (EEOC filings and lawsuits) each year than general liability claims. Given that and the fact that almost no restaurant owner is willing to be without general liability insurance, I have to believe that these choices are made from ignorance rather than fact.

The most likely reason that so few restaurant owners purchase EPL Insurance is probably that they are unaware of the risks, the protection, or the need for it. This generally comes down to a failure of their agent to keep them informed and up to date on the risks that they face and how insurance could help protect them. If you own a restaurant, then you should hire an insurance agent who insures many other restaurants to help you buy the best possible protection at the best price. Clinard Insurance Group, located in Winston Salem, NC is such an agent. We insure over 100 restaurants across North Carolina and South Carolina and we would love to help you with your restaurant insurance needs and questions. Please give us a toll free call, at 877-687-7557 or visit us on the web at www.TheRestaurantInsuranceStore.com.