

Professional Underwriters

Safe Schools Agenda

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A monthly service provided to help you with your efforts to make your school safe for students, staff and the public

Court of Appeals Finds Unaware Landlord Liable for Injuries to Worker

In a recent decision, the Court found a landlord absolutely liable for injuries suffered by a worker while installing an air conditioner even though it had no knowledge of the installation, and the lease required they be notified. In a 5 to 2 decision, the majority wrote:

“At bottom, (the landlord) asks us to hold that an owner may insulate itself from liability by contracting out of the Labor Law. We decline its invitation to engraft this new exception onto the statute. To allow owners to do so by the simple expedient of a lease provision, as suggested by the dissent, would eviscerate the strict liability protection afforded by the Labor Law. As we have repeatedly stated, section 240 (1) exists solely for the benefit of workers and operates to place the ultimate responsibility for safety violations on owners and contractors, not the workers.”



The dissenting judges wrote that the decision unwisely and unnecessarily increases the already heavy burden that Labor Law section 240 places on New York property owners. “I can not see how the statutory goal of preventing workplace accidents is advanced by holding a landlord liable in a situation like this. What could anyone expect the landlord to do to prevent the accident, other than what it did...”

Independent Insurance Agents & Brokers of New York advises that there are two lessons from this case. First, building owners need very high limits of liability insurance coverage, and secondly, they need comprehensive risk management programs including indemnification agreements (hold harmless agreements) in order to transfer as much of the risk as they reasonably can.

Source: IIABNY Insider, April 30, 2008

The Dangers of the Ubiquitous Cell Phone

There are 254 million cell phones at loose in the land, up from 4.3 million in 1990, according to the Cellular Telecommunications and Internet Association. The scary thing is that 73 percent of drivers talk on cell phones while driving despite restrictive laws and warnings.

The National Highway Traffic and Safety Administration (NHTSA) reports that 25 percent of all car accidents (about 1.2 million), are caused by distractions including talking on cell phones. Evidence that talking on cell phones distracts drivers is accumulating. Researchers at the University of South Carolina found that planning to speak and speaking caused subjects to be four times more distracted than when they were listening. Drivers need to take the dangers of cell phone use while driving seriously. Some Tips:

1. In New York, state law requires the use of a hands-free cellular phone while driving a motor vehicle.
2. If driving without a hands-free cellular phone, you should wait until the car trip is complete before placing a call.
3. It is not wise to pull over at the side of the road, where a rear-end collision is possible. Instead, you should pull into a parking lot.
4. Use phone's voice mail feature while driving.
5. Absolutely essential calls should only be performed while stopped.
6. The phone should be placed where it is easy to see and reach.
7. Take advantage of speed dialing capabilities.
8. Never drive and talk on the cell phone during stressful, emotional, or complex discussions since the risk of an accident is heightened.
9. Never text message while driving.

Source: Center for Disease Control.



Using Hand and Portable Power Tools Safely – Do's and Don'ts, continued

Using tools safely helps prevent injury to the user and to others in the area. The following is a continuation of tips which should be followed by all employees. The list is not all-inclusive. Safe use of any tool will always include good common sense and judgment on the part of the operator.

Always maintain and consult instruction manuals from tool manufacturers, especially for power tools.

When using metal cutting tools, DO:

- Secure the free end of the metal sheet or wire being cut so that it will not fly and injure someone.
- Apply the cutting force at right angles to the work place.
- Use protective shields around punches and chisels whenever possible to avoid striking your hand with the hammer.
- Tighten hacksaw blades securely to the frame.
- Use hacksaw blades with the proper number of teeth per inch for cutting metal of various levels of hardness.
- Use pressure only on the forward stroke when using hacksaws.
- Make sure that no one, including yourself, is standing where they might be hit by flying pieces when cutting metal strapping.
- Cut metal straps squarely, not at an angle.
- Clamp the piece to be filed securely in a vice at a comfortable working height and position.
- Use your thumb and forefinger of one hand to guide the point of a file while gripping the handle securely with your other hand.

When using metal cutting tools, DO NOT:

- Twist the blade, apply too much pressure or saw too fast with a hacksaw.
- Continue an old unfinished cut with a new hacksaw blade.
- Use any kind of cutting tool near live electrical equipment or wires.
- Bend wires back and forth to get them to break.

- Use snips or bolt cutters to cut metal that is too heavy or thick.
- Use shears or snips that are too tight or too loose.
- Use a metal chisel with a mushroomed striking face or dull point.
- Use a metal file that does not have a secure handle.
- Use a file that has metal chips or other loose debris on it.

When using wood cutting tools, DO:

- Always apply force or pressure away from the body when using saws, drills, planes, etc.
- Secure the free end of the wood if possible so that it will not injure someone when it falls off.
- Use a cross cutting saw for cutting across the grain and a ripping saw for cutting with the grain.
- Use axes or hatchets with sharp narrow blades for chopping hard wood and sharp wider blades for chopping soft wood.

When using wood cutting tools, DO NOT:

- Use any rusted saw or other tool.
- Use a saw that is too dull to cut with moderate force.
- Use an axe, hatchet, or maul with a loose or cracked handle.
- Use a wood chisel with a mushroomed striking face or a dull point.
- Cut metal with saws designed for wood only.
- Strike axes or hatchets against metal, stone, or concrete.
- Use an axe or hatchet as a wedge or maul.
- Swing an axe or hatchet through the air unless there is ample clearance around you to do so without hitting anyone or anything.
- Hold small pieces of wood in your hands while trying to cut them.

To be continued.