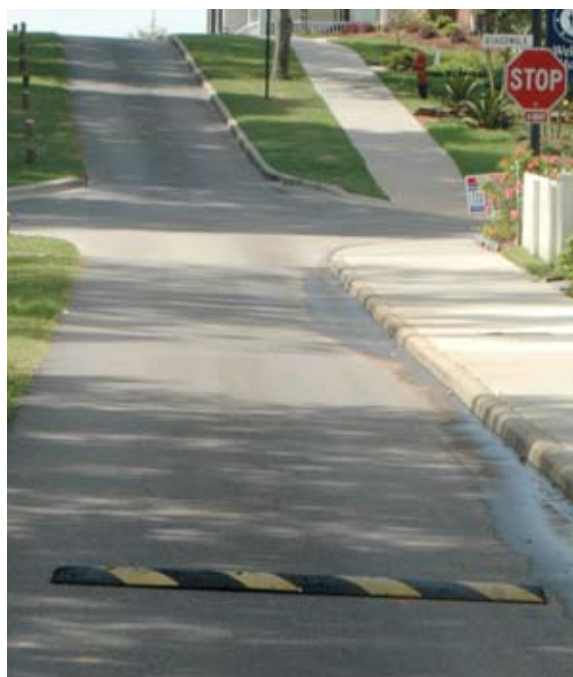




Risk Management Solutions

A QUARTERLY NEWSLETTER OF THE ALABAMA MUNICIPAL INSURANCE CORPORATION
AND THE MUNICIPAL WORKERS COMPENSATION FUND, INC.

SUMMER 2008



Speed Bump Ahead

Richard Buttenshaw, Loss Control Representative

I recently visited a small municipality that's been having problems with people speeding on the main road through town. In an attempt to force drivers to slow down, the municipality installed speed bumps along a section of the roadway in question. While it seems like a good idea, installing speed bumps raises liability issues such as the town's liability for damage done to cars while passing over these speed bumps and the ramifications of slowing down emergency response vehicles.

So what is your potential liability exposure if you have speed bumps on your roads? The short answer is that speed bumps do expose a municipality to potential liability for damage to cars. It's easy for someone to prove their car was damaged but not so easy for the city to prove that it was their excessive speed over the bumps that caused the damage. The first step in helping to reduce this exposure is to contract out the design, construction and installation of all speed bumps so they comply with a recognized "standard." The second step is to provide adequate warning of their existence in the form of signs and road markings in order to minimize exposure for damage claims.

The question of liability for the subsequent impact on emergency response vehicles is much harder to answer. At this time, our legal department is not aware of any reported court decisions in Alabama that would set a clear precedence as to legal liability of the municipality. Consequently, when our attorneys are asked their opinion on the use of speed bumps, they discourage their use because of the potential for liability.

You may see speed bumps everywhere, but it's definitely worth taking adequate time to weigh the pros and cons of installing such devices. They may create even more bumps in the road than you bargained for!



Upgraded Firearms Training System Available to AMIC/MWCF Members

The Alabama Municipal Insurance Corporation, Inc. and Municipal Workers Compensation Fund, Inc. recently purchased an upgraded Firearms Training System (FATS) with an advanced Bluefire(TM) wireless technology weapon simulator that incorporates features previously available only on tethered weapons. A Bluefire Chemical Spray and Taser are also included with this system as well as the latest in new scenarios.

In an effort to make training more realistic, FATS virtual weapons resemble the fit and function of live weapons to include recoil. FATS virtual training provides accurate, real-time diagnostics including point-of-aim, weapon status, trigger pressure and cant. Since there is no cord attached, the Bluefire Glock 17 improves training value by allowing realistic freedom of movement and magazine reloading. The number of rounds in the Bluefire Glock 17 magazine replicates the number of rounds in the actual weapon. The simulator must also be reloaded with a new magazine each time the magazine is emptied.

Loss Control Representative Todd McCarley is the League's FATS coordinator and is responsible for training AMIC/MWCF members with this new system. If you are interested in scheduling FATS in your area, please contact Donna Wagner, Loss Control Coordinator, at **334-262-2566**.

Your Loss Control Team



(Top Row) Stan Fant, Roger Owens, Richard Buttenshaw (Middle Row) Todd McCarley, , Will Strength (Front Row) Donna Wagner, Jennifer Frakes, Sonya McCarley, Rachel Wagner, Myra Forrest

Defining Moment

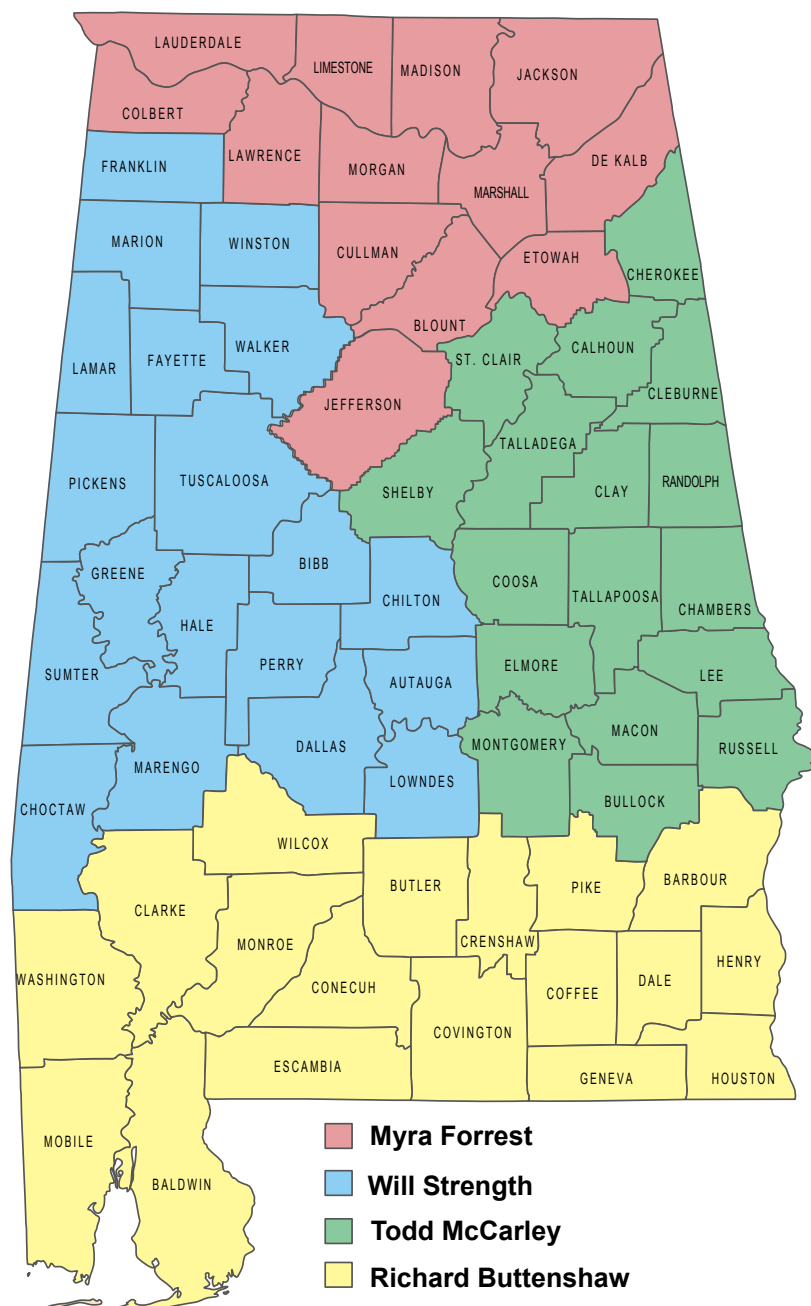
Contractual Liability: In the course of operations, public entities will engage in many different types of contracts. Contracts are legally binding agreements between two parties promising a certain performance in exchange for a certain consideration. A contract is formed when one party makes an offer which is accepted by the other party therefore creating contractual liability.

Contractual liability is defined as liability that does not arise by way of negligence, but arises out of an insured's contractual obligations or agreements. It is common in both written and oral business agreements for one party to assume the liability of another, therefore increasing the exposure to loss.

"Additional insured" and "named insured" are terms that should be understood when reviewing insurance coverages, contracts and the rights that each provide to a public entity.

When a public entity buys an insurance policy from an insurance company and the insurance company issues the policy to that public entity, that public entity is then the "named insured". When a public entity is an "additional insured," it means that another entity (a named insured) owns the policy but has added the public entity's name to it as a covered party. As an "additional insured," the public entity is now entitled to some set of contractually defined protections from the issuing insurance company.

Public entities should review all contracts and insurance policies with respect to the rights of both the "additional insured" and "named insured" provisions. The public entity should be aware that its rights as an "additional insured" depend on what the insurance contract states. An insurance policy could narrow the protections that additional insureds have under their insurance policies. *Always consult with your agent or city attorney to determine the rights you have as an additional insured.*



TULIPs help you avoid risk!

Richard Buttenshaw, Loss Control Representative

Many cities and towns have civic centers or recreation halls they occasionally rent to the public for functions such as family reunions, wedding receptions or birthday parties. Thankfully, most have some form of rental agreement outlining the rules and responsibilities for renting the facility. Even so, how many of you consider the insurance coverage necessary for special events held at your facilities?

Fortunately, under your General Liability policy the municipality is covered should something unfortunate happen during the special event. However, the coverage only applies to the municipality, **NOT** the person who rented the facility for the event. So let's imagine Jane is getting married and she rents a room at your city's civic center for the reception. During that reception a guest gets hurt and subsequently files a lawsuit. The good news for the city is that their normal liability policy will cover the municipality. However, if a suit is also filed against Jane, who covers her? Unfortunately, she probably (mistakenly) thinks the city's insurance covers her as well. **Wrong!** *It only covers the municipality.* Her next hope is that her personal homeowner's policy will cover the unfortunate incident. It may; however, that depends on her homeowner's policy. If her homeowner's policy doesn't offer coverage, poor Jane will be left on her own with no coverage at all!

Thankfully, it's not all bad news. There are special insurance policies available designed specifically for people like Jane. Often called "special events policies" or TULIPs (Tenant Users Liability Insurance Programs), these policies are designed to cover a single event or function. Unfortunately, however, insurance is probably the last thing on Jane's mind while she's planning her wedding.

Now you may be thinking to yourself, why are we worried

about Jane if we, the municipality, already has coverage? Well, first of all consider it a free service you are offering to people like Jane by informing them that they need special insurance for a special event. Second, your city should probably be added as an additional insured on the special events policy. That way if something unfortunate and unforeseen does happen, the special events policy pays out first to cover all claims – including the city's – related to the event, and the city's normal liability policy will only be required to pay if the claim exceeds the special events policy limits.

What does that mean? Well, it means your premiums will not go up due to claims paid arising from special events that really had nothing to do with you. So, in a nut shell, Jane pays a small premium for the special events policy; she gets *personal* protection during the event; and the city gets coverage for free and might not even have to use its own insurance. Also, consider how much confusion, arguments and ill feeling the purchase of a TULIP could potentially avoid should something happen. It's a win-win situation.

So how do these special events policies work? The most important thing to remember is these policies should be *required* and should be purchased when the event is booked. Before the event is booked, you should contact your local agent or AMIC directly to find out what policy options are available. That way when Jane comes in to book the civic center for her wedding reception, you will have all the necessary information and details ready for her. In fact most TULIPs are preset by the city and all Jane would have to do is go online to answer a few simple questions about the particular event and then pay for the policy with a credit card. The system would then automatically send out certificates of insurance to both the municipality and to Jane. It's a simple, hassle-free endeavor for everyone.

HOT TOPIC!

Fire-safe cigarette legislation: Seventy-six percent of the U.S. population is now or soon will be better protected from cigarette fires thanks to state passage of fire-safe cigarette legislation. Ten states have already implemented fire-safe cigarette laws; 25 states have passed fire-safe cigarette laws; nine states, including Alabama, have pending action on fire-safe cigarette legislation; and six states have not yet taken action on fire-safe cigarettes.

There are many myths about the fire-safe cigarette issue used by the tobacco industry as a "smokescreen" to divert attention away from the fact that fire-safe cigarettes can be a highly effective tool to save lives and prevent injuries and devastation from cigarette-ignited fires. (Courtesy of the National Association of State Fire Marshals). For example:

MYTH: There is no such thing as a cigarette that reduces the risk of fire.

FACT: Research by the Harvard School of Public Health (HSPH), funded by the American Legacy Foundation, indicates several benefits of implementing the New York regulation. "Fire Safer"

Cigarettes: The Effect of the New York State Cigarette Fire Safety Standard on Ignition Propensity, Smoke Toxicity and the Consumer Market" compared the physical properties of cigarettes sold in New York with cigarettes of the same brands sold in Massachusetts and California (before MA and CA implemented fire-safe cigarette laws). The report found that New York cigarettes were far less likely to exhibit full length burns (only 10 percent) than those of the other states (99.8 percent). The HSPH researchers found no valid reason why cigarette manufacturers should not sell lower ignition strength cigarettes nationwide. The Harvard study confirmed the 20-year-old conclusion of the Federal Technical Study Group on Cigarette and Little Cigar Fire Safety. This group, created by the Cigarette Fire Safety Act of 1984 (Public Law 98-567), concluded that it was technically feasible to develop cigarettes with a reduced propensity to ignite upholstered furniture and mattresses. As the Harvard study makes clear, the federal study was correct, and the tobacco industry can make reduced ignition strength cigarettes if it chooses to do so or is required to do so.

Previous issues of this publication can be found by visiting www.amicentral.org or www.alalm.org and clicking on the MWCF link.

2008 SKIDCAR SCHEDULE

- Thomasville July 8 – 18
- Fort McClellan July 29 – August 8
- Decatur August 19 – 29
- Muscle Shoals September 8 – 19
- Ashland October 7 – 17
- Fort Payne October 28 – 31
- Orange Beach November 11 – 21
- Montgomery December 9 – 19

For more information, contact Donna Wagner at 334-262-2566.



Dates/locations subject to change.

Popular Safety DVDs

New DVDs:

- 7.102 Horizontal Directional Drilling: Safe Work Practices
- 7.103 UCA Safety DVD (Auger Boring, General Construction Site, Hazmat, Heavy Equipment Operations, Pipe Handling, Flagging Safety, Trench Shoring, Tunneling Safety)

Summer DVDs:

- 5.006 Cutting It Short, Part 1 (Cutting Grass)
- 5.007 Cutting It Short, Part 2 (Cutting Grass)
- 5.032 Right-Of-Way Mowing Safety
- 5.039 Tractor Safety
- 5.053 Landscaping Equipment: Safety and Maintenance
- 7.029 Outdoor Safety: Critters and Plants
- 7.067 Responding to Bites and Stings
- 7.079 Tree Trimming Safety
- 7.080 Chainsaw Safety
- 7.083 Inspecting Playgrounds for Safety
- 7.084 Softball & Baseball Field Maintenance & Safety
- 7.089 Working Safely in Hot Environments
- 7.097 Heat Stress: Staying Healthy, Working Safely

Call, FAX or e-mail your Video/DVD request to Rachel Wagner at: 334-262-2566; rachelw@alalm.org; or FAX at 334-263-0200.

EMPLOYMENT PRACTICES LAW HOTLINE

1-800-864-5324

Through a toll-free Employment Practices Law Hotline, members can be in direct contact with an attorney specializing in employment-related issues. When faced with a potential employment situation, the hotline provides a no-cost, 30 minute consultation.



*For more information, call:
334-262-2566.*



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