

FOOD FOR THOUGHT

ALTERNATIVES TO TRADITIONAL WORKERS' COMPENSATION FOR FOOD AND BEVERAGE COMPANIES



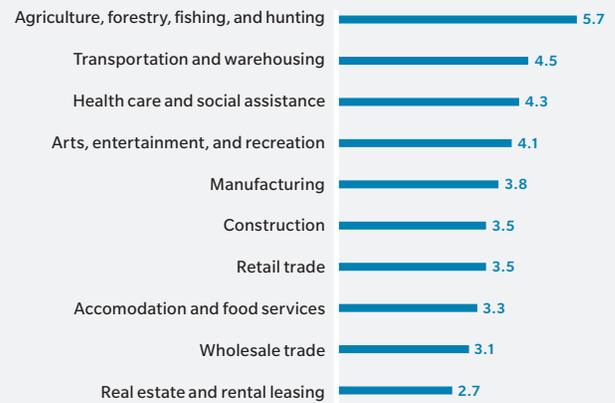
For most food and beverage companies, purchasing workers' compensation insurance can be an effective way to protect against the costs of workplace injuries and illnesses while complying with state regulations. But traditional workers' compensation is not the only way to mitigate risk and provide benefits for injured employees. Food and beverage companies can consider several alternatives, including single-parent captives, group captives, and in Texas, non-subscription.

SINGLE-PARENT CAPTIVES

Workers' compensation is the top risk underwritten by captives owned by US-based companies. Using a captive to manage workers' compensation risk can offer several benefits, including easier access to the reinsurance market, better control of costs, and, in some instances, tax efficiencies. The ability to more strategically control how workers' compensation claims are managed can be especially beneficial to food and beverage companies, which have a higher than average incidence rate of nonfatal occupational injuries and illnesses, according to Bureau of Labor Statistics data (see Figure 1).

Using a single-parent captive as part of a broader workers' compensation program and risk management strategy can be relatively easy, especially if a company already owns and operates a captive. You can determine if using a captive to manage workers' compensation risk is right for your organization through a feasibility study.

FIGURE 1 Industries with the highest nonfatal occupational injuries and illnesses incidence rates per 100 full-time workers, 2015



Source: US Bureau of Labor Statistics

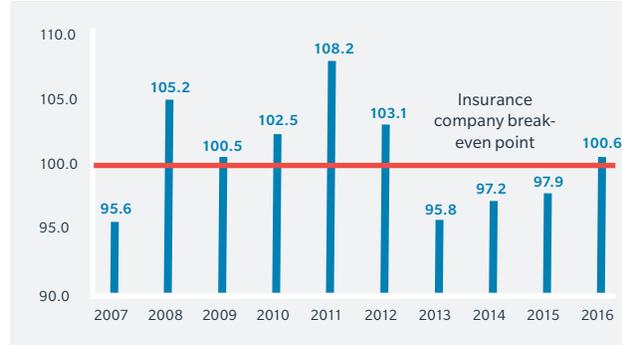
GROUP CAPTIVES

Group captives are typically used to provide coverage for all three primary casualty lines; workers' compensation naturally represents the bulk of covered exposures and premiums written. Group captives are jointly owned by several companies, which agree to share the risk underwritten by the captive.

Because it can insulate them from potential swings in the traditional insurance market, a group captive offers more predictable annual

insurance expenses for owners. In the traditional insurance market, rates directly correlate with the industry’s profitability; insurers typically raise rates when the industry’s combined ratio — which represents losses plus expenses — is above 100% and lower rates when the combined ratio is below 100% (see Figure 2).

FIGURE 2 Insurance Industry Combined Ratio (after Dividends)



Source: A.M. Best Company

Although most food and beverage companies can benefit from joining a group captive, other members typically establish specific criteria that prospective members must meet. Because the risk is shared by all owners, existing members will want to ensure that new joiners are in good financial health and have strong safety cultures that are embraced by senior management. Group captives also often target prospective members with favorable historical loss experience, using a workers’ compensation experience modification rate of 1.25 or less as an initial guide.

TEXAS NON-SUBSCRIPTION

In Texas, employers can choose to non-subscribe, or opt out of the state’s workers’ compensation system. Instead of providing benefits to injured workers as outlined in the state’s workers’ compensation law, non-subscribers typically create modified health and benefit plans akin to group health programs, although such plans are not required. These modified plans are regulated under the federal Employee Retirement Income Security Act (ERISA). Nonsubscribers also replace their workers’ compensation policies with specialty insurance programs that are typically lower in cost.

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Under these plans, employers can access a broader range of medical providers, as many Texas physicians do not participate in the state’s workers’ compensation system. Non-subscribers can also often offer equal or superior benefits to those provided to injured workers’ under traditional workers’ compensation and provide care to injured employees more quickly. Combined, these factors typically lead to shorter durations of disability and significant cost savings, especially for employers with many employees in Texas.

Any private employer with exposure in Texas can choose to non-subscribe; as of 2016, 22% of Texas private sector employers, including 24% of arts, entertainment, accommodation, and food services employers, were non-subscribers, according to the Texas Department of Insurance. Designing and implementing a modified benefits program, including conducting an economic feasibility study, can typically be completed in three months or less.

But non-subscription can also carry risk. Employers that participate in the workers’ compensation system are protected by what is known as the exclusive remedy provision, which prevents injured workers from seeking benefits from filing civil litigation against their employers. Non-subscribers have no such protection. Participation in the workers’ compensation system may also be a contractual requirement for federal and state government contractors.

EVALUATING ALTERNATIVES

Each of these options could present cost savings and other benefits to employers, but food and beverage industry risk professionals should carefully consider them. Talk to your insurance and risk advisors about whether these options are appropriate for your organization and work with them to build the most effective programs to manage your costs and provide adequate benefits for your injured workers.

This briefing was prepared by Marsh’s Food & Beverage Practice, in conjunction with Marsh Captive Solutions and PartnerSource, Inc.

For more information on this topic, visit marsh.com, contact your Marsh representative, or contact:

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