



# Risk Management Solutions



Winter 2013

A Quarterly Newsletter of the AMIC/MWCF Loss Control Division

## Municipal Employees Under Attack

David Bradford • Mayor, Muscle Shoals • President, Alabama League of Municipalities, 2012-2013



Our municipal employees are under attack. Plaintiff lawyers, realizing they can't penetrate the state tort caps, have started suing our employees in their "personal" capacity. Adding insult to injury, some judges in the state are actually finding for the plaintiff, thus circumventing the tort cap – *even though these judges agree that the employee is simply performing his/her job.*

What does this mean to us? It's simple. If the tort cap doesn't exist, all insurance companies in the State of Alabama will be forced to raise their rates. **Significantly.** Early actuarial numbers indicate rates will increase *in excess of 300 percent.* Yes, you read that correctly: *300+ percent,* which equates to *a lot* of money quickly and an enormous expense over time.

In the mid 1980s, a similar crisis occurred nationwide. Insurance rates were so exorbitant that cities had to shut down their parks, tear out playground equipment and discontinue bus routes. One city even pulled its police department off the street. It was so bad, in fact, that *Time Magazine* devoted 14 pages to the problem (March 24, 1986).

**What's the answer?** Every Judge and Legislator in the State of Alabama needs to be reminded that municipalities exist for a reason: to provide public services that no other entity can or is willing to provide, particularly when the profit margin is nonexistent. Garbage service, police and fire protection, public transportation, parks and playgrounds ... these are all provided by municipalities via our taxpayer dollars to improve the safety and quality of life for our citizens – you, me, our children and grandchildren. These services, many we consider to be absolute necessities, are funded on shoestring budgets –

budgets that can't tolerate an additional *300+ percent increase* in insurance premiums.

Because our cities and towns provide these unique, special services, laws were created to protect Alabama's municipalities – *and their employees* – from excessive exposure to lawsuits. After all, if a city has to pay a multimillion-dollar verdict, the taxpayers are

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ultimately going to be asked to cover that expense through much higher insurance premiums.

As they exist today, Alabama municipal statutes are a set of laws that were created to limit municipal liability. These laws have been on the books and effectively enforced for years, and – until very recently – the Alabama court system has interpreted them as they were intended.

**Remaining silent on this subject is not an option.** Failure to act can and will be catastrophic for municipal budgets throughout the state. Considering the current economic downturn, our cities and towns don't need to face another financial crisis. Certainly, nobody wants to go back to the insurance problems of the mid-1980s. However, without action from our local leaders, we'll be stepping backwards 25 years – only this time it could be worse.

It's imperative that we bring this critical issue to the forefront by discussing it with our judges and by contacting our legislators and asking their position on municipal statutes. We must also remind them that the reason municipalities have built-in protections is to, ultimately, protect the taxpayer – and that there should not be another avenue for plaintiffs attorneys to have access to taxpayer money. Even more importantly, we must be vigilant in pointing out that in order for cities and towns to recruit and keep qualified employees, municipalities **must** have ways to protect our employees against backdoor assaults that are now coming in the form of individual lawsuits.

Contact your legislators.

Talk to your judges.

Protect your employees, your municipality and our taxpayer dollars. ■

## Visit us online! [www.losscontrol.org](http://www.losscontrol.org)



## Defining Moment

After you've identified and analyzed the risks or hazards that could affect your municipality, it is time to take action.

Risk Control is the next step where municipalities take action to eliminate, reduce or transfer risks. Completely eliminating a risk or hazard is obviously the most desirable goal, but it is often very difficult to accomplish. When eliminating a risk can't be accomplished, reducing the risk to an acceptable level is your next option. Some examples or techniques for reducing risks include adopting proper policies and procedures, training personnel, background checks on applicants and properly inspecting and maintaining equipment and facilities.

When a municipality is unable to eliminate or reduce risks, the last step is risk transfer. With a proper contract, hold harmless agreement or the purchase of insurance, you can transfer the risks that you would normally be responsible for to a third party entity. Risk control is a critical step that every municipality must take to have a successful risk management program.

## It's Time for Workers Comp Payroll Audits

Every member of the Municipal Workers Compensation Fund, Inc. will soon receive an audit request for payroll information for the 2012 Fund Year. Many members will be subject to an independent audit from Overland Solutions, and those members will be contacted to set up an appointment. All other members will be receiving an Audit Request Form. Please fill in this form according to the instructions provided and return as soon as possible to our underwriters at Millennium Risk Managers. **All audit information is due by March 31, 2013.**

If you have not received a request by 1/31/13 or have any questions, please call **Carla Thienpont at Millennium Risk Managers 1-888-736-0210.** ■

## MWCF Launches Website; Welcomes New Board Members

The Municipal Workers Compensation Fund has recently launched a website: [www.almwcf.org](http://www.almwcf.org). Quick quotes as well as information about staff and claims reporting is now easily accessible. In addition, MWCF welcomes new board members Mayor Billy Blackwell of Ozark, Mayor Tom Henderson of Center Point and Councilmember Don Moore of Uniontown. ■

# Terry Sanders Joins Loss Control Staff



**Terry Sanders** joined the Loss Control Division in December as a Police Safety Consultant and is responsible for traveling to member police departments throughout the state in an effort to reduce municipal liability and employee injuries. He joins Roger Owens, who is now semi-retired, as the second Police Safety Consultant on the Loss Control staff.

Terry comes to AMIC/MWCF with an abundance of experience in the criminal justice system. He has a BS Degree in Criminal Justice and Police Administration from Columbia Southern University. He graduated from the Alabama State Police Academy in Selma, Alabama, in 1981 and from the F.B.I. National Academy in Quantico, Virginia, in 1990. Terry was certified through Auburn University Center for Governmental Studies as a Public Personnel Administrator in 1993 and has also been certified through the Alabama Certified Law Enforcement Executive Program as a Chief of Police. He served as Chief of Police for Valley and then Bay Minette, Alabama, and as the Assistant Chief of Police for the Fairhope Alabama Police Department. From 2005 to 2007, he was a Criminal Justice Instructor at Remington College at the Mobile campus.

Terry is a Veteran of the United States Air Force and has served on a number of Boards including Goodwill, Greater Valley Boy Scouts of America, the North Baldwin Literacy Council and North Baldwin Chamber of Commerce. He is an active member of Bay Minette First Baptist Church. ■

## CLEEP Program

The Certified Law Enforcement Executive Program (CLEEP) is open to all active full-time police chiefs in Alabama who are members in good standing in the Alabama Association of Chiefs of Police (AACOP). **The course listing for 2013 includes:**

- **Jan 28-31:** Alabama Police Chiefs' Winter Conference/ Legal Issues and Liability Management in Law Enforcement; Renaissance Hotel and Convention Center, Montgomery
- **Feb 21-22:** Police Leadership: Managing for the Future; University of North Alabama, Florence
- **April 18-19:** Harassment, Discrimination, Racial Profiling and Related Issues; Location TBA
- **June 5-7:** New Chief's Development Seminar; Jacksonville State University, McClellan Campus **NOTE: All new police chiefs are highly encouraged to attend this seminar. The seminar is free to those who have not yet attended.**
- **June 6-7:** Ethics and Integrity/Media Relations; Jackson State University, McClellan Campus
- **July 29-31:** Alabama Police Chiefs' Summer Conference; Meyer Civic Center, Gulf Shores
- **November 7-8:** Managing Conflict/Strategic Planning: Create and Communicate a Vision; University of North Alabama, Florence

**To register online:** [www.jsu.edu/coned/cleep.html](http://www.jsu.edu/coned/cleep.html). **For additional information, call 256-782-5918 or 800-634-7100 or email [ConEd.Help@jsu.edu](mailto:ConEd.Help@jsu.edu).**

## Distracted Walking - A New Health and Safety Risk for Employers

**My Community Workplace, The McCalmon Group, Inc.**

An online video of a woman falling into a shopping mall fountain went viral in 2011. She was texting and walking at the same time. Although she was not hurt physically, the woman acknowledges that she could have walked into a bus, car or ditch, and she warns others that texting while walking is dangerous.

According to an Associated Press report, the number of people in the U.S. rushed to emergency rooms because of injuries incurred while walking and texting or tweeting, playing video games, talking on the phone or listening to music with headphones, has more than quadrupled in the past seven years. In fact, according to data collected by the Consumer Product Safety Commission, in 2011 alone, 1,152 people were treated for "distracted walking" injuries. However, the statistic is likely a gross underestimate because emergency room workers do not always ask patients if they were using a mobile device at the time of the accident.

People have died from "distracted walking" accidents. Researchers at the University of Maryland have identified 116 cases in which pedestrians were seriously injured or killed while using headphones. The National Highway Traffic Safety Administration reports that although traffic deaths went down in 2010 compared to 2009, pedestrian fatalities increased by 4.2 percent and injuries by 19 percent. Deborah Netburn, "Number of 'distracted walking' injuries quadruple in 7 years," [www.latimes.com](http://www.latimes.com) (July 30, 2012).

### Commentary

With the rising popularity of mobile devices for work, employers and employees should heed the advice given in the source article: put mobile devices away when you are walking, driving or doing anything else that could result in an accident.

The issue for employers is that, like distracted driving, distracted walking poses a real safety and workers' compensation risk. Employees who use tablets, cell phones and other mobile devices in the field create growing numbers of safety risks for employers such as distracted walking incidents. Other environments may present an even greater risk such as those in which workers operate loud, dangerous machinery. Even office workers are at risk for distracted walking accidents, especially in fast-paced, high traffic areas.

Employers should warn employees of the dangers of distracted walking. In high-risk areas, employers should consider making mobile device usage off-limits and add safety limitations to social media and network, equipment and Internet usage policies. Employers should also consider adding distracted walking to a safety policy. ■

# 2013 SkidCar Schedule

Through an advanced, computer-controlled driver training vehicle known as the Skidcar System, trainees learn how to react quickly and safely to a range of hazardous driving conditions. Training is conducted throughout the state at a minimal cost.

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

Montgomery	Feb. 19 – March 1	Oneonta	July 30 – Aug. 2
Troy	March 19 – 29	Decatur	Aug. 13 – 23
Dothan	April 16 – 26	Arab	Sept. 3 – 12
Valley	May 14 – 24	Open	Oct. 1 – 11
Vestavia Hills	June 11 – 21	Orange Beach	Oct. 28 – Nov. 8
Thomasville	July 8 – 12	Montgomery	Dec. 3 – 13
Demopolis	July 15 – 19		

**Date/location subject to change.**



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## Winter Safety DVDs

- 5.003-VHS - The Invisible Killer: Carbon Monoxide
- 5.025-VHS - Portable Generators
- 5.046-VHS - Winter Driving
- 5.058-DVD - Driving Safely in Winter Conditions
- 5.061-DVD - Road Rage: Highway Havoc
- 5.062-DVD - A DUI Story...What If?
- 5.063-DVD - Defensive Driving for Government Employees
- 5.067-DVD - Distracted Driving (Focus on Texting and Driving)
- 5.068-DVD - Defensive Driving: 15-Passenger Vans
- 7.044-DVD - Space Heaters
- 7.109-DVD - Working Safely in Cold Weather
- 7.129-DVD - The Buried Truth Uncovered with Eric Giguere
- 7.130-DVD - Drowsy Driving: It's Your Wake Up Call
- 7.131-DVD - Social Media: Reduce the Risk
- 8.013-DVD - An Introduction to the Globally Harmonized System (GHS)
- 10.010-DVD - Office Ergonomics: It's Your Move
- 12.011-VHS - Static Electricity

**Video/DVD requests to: Rachel Wagner at 334-262-2566;  
rachelw@alalm.org; or FAX at 334-263-0200.**

## Need Help Filing Work Comp Claims?

For step-by-step instructions, visit:

[www.almwcf.org](http://www.almwcf.org)

## 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.

[www.losscontrol.org](http://www.losscontrol.org)