

# ~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~

## INFORMATION

### SEPTEMBER 2008

#### REMOVAL OF HAZARDOUS MATERIAL

It has come to our attention that some Lodges have been presented with problems related to the removal of hazardous material such as asbestos, lead, etc. It is imperative that the Lodge management properly handle such situations to avoid potential injury to workers, members or guests. It is also very important that ALL local, state and Federal regulations and or laws and procedures are followed. Mishandling can result in fines in the thousands and tens of thousands of dollars. In addition to any fines, some properties could be closed or quarantined.

If such substances are to be removed, this work can not be done by volunteers or regular workers. This work must be done by properly certified contractors.



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#### 2008 ACCIDENT PREVENTION SEMINARS

**Any state chairmen who have not turned in the form sent to them for the accident prevention seminar, please do so immediately. We are unable to book an airline ticket or make room reservations for anyone who has not sent in their form.**

**For those of you who have returned the seminar form but have not returned the Activities Status Report, please return those completed forms to the Insurance Department as soon as possible.**

#### OFFICERS/TRUSTEE BONDS

As a reminder, no separate bonds are needed under the Statutes of the Order. All bonding of persons required under the Statutes of the Order are covered under the fidelity coverage section of the Property Plus Program. If any Lodge purchases such separate bonds for this purpose, it is an unnecessary expenditure.

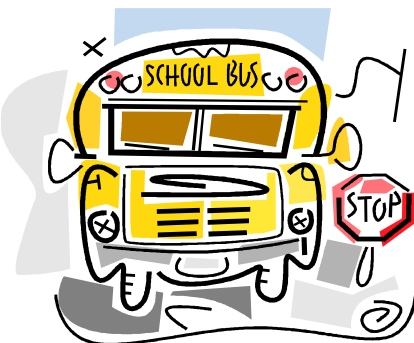
#### ENTRANCE SAFETY

Every week, there are falls at the Lodge entrance. Make sure that entrances are in good repair and that traffic is properly directed.

#### STAGES/RAISED AREAS

Every week, someone falls off a stage or trips on a multi-level floor. We must control traffic and set up barriers to avoid this hazard. Be aware, be forewarned.

**OUR KIDS ARE BACK IN SCHOOL.  
PLEASE DRIVE SAFELY.**



## ELECTRICAL WIRING IN LOCAL LODGES



Every Lodge should consider the status of the Lodge's electrical wiring. This is especially true with the many older facilities. Is the wiring adequate for the present load or electrical needs? There is also the question of the type of materials used.

We have had inquiries regarding the use of aluminum electrical wiring in the Lodge. First of all, not all aluminum wiring is hazardous, but a qualified electrical contractor should complete inspections to ensure the compliance with applicable safety requirements.

Structures built in the 60's and 70's involved 110-volt circuits; primarily for outlets and lights. There were instances where connections became loose. These sometimes overheated and sometimes resulted in fires. Consequently, the use of 110-volt aluminum wiring was abandoned and upgrades at the connections were warranted. Instead of common wire nuts, special connectors were used. As long as the connecting hardware is rated for aluminum wire and as long as the wire ends are protected with a corrosion-resistant compound, concern over the presence of aluminum wiring is then typically unwarranted.

Relating to 220-volt circuits, the use of aluminum wiring is common and acceptable. Those wires serve electric ranges, heating equipment and air conditioners. In fact, most electric utility companies use aluminum cable for their main service line.

Once again, examination and service of electrical wiring is a job for a qualified contractor. This is not a job for an amateur volunteer.

## SERVICE OF ALCOHOL OFF PREMISES

There has been a trend where commissary corporations or others with contracts with event sponsors attempt to have not-for-profits act to serve alcoholic beverages at such events for a percentage of the proceeds but the not-for-profits must provide the liquor insurance.

Those entities presently holding events or entities with concession contracts will attempt to have not-for-profits become responsible for liquor liability by providing some share of sales of such items. This is not acceptable.

The Elks can not afford to allow Elks Lodges to misuse the Self-Insured Liability Program in this fashion. If the Lodges were insured by individual policies, they would not be allowed to function in this way in most cases because of underwriting rules.

As has been stated previously, there have been recent verdicts of over 100 million dollars entered against other not-for-profit organizations where service was provided at such outside events.

The Elks Self-Insured Master Liability Program assumes the first 1 million of each and every occurrence. The local Lodges' assessments are predicated on the normal exposure derived from the Lodge operations, not on expanded less controllable exposures outside the Lodge. **With that in mind, it has been decided that certificates of insurance naming anyone additional insured will not be issued for any Lodge if the service of alcohol to the public is involved.**

The rule with the service of alcohol is that no person approaching intoxication is to be served under any circumstances. This is harder, if not impossible, to do in an event circumstance.

The Order can not allow other organizations to use the Self-Insured Master Liability Program in this improper fashion. The Self-Insured Master Liability Program includes liquor coverage for service at the Lodge.

Lodges should not assume that they should participate in commercial service that benefits other organizations or presents an exposure not related to the operation of the Lodge facility.





## **HALLOWEEN**

Many Lodges have various types of activities at Halloween, such as haunted houses, costume parties, etc. The Lodge should carefully review the plans for these activities to make sure they are conducted in a safe manner.

- Construction of any props or facilities should be properly done in a sturdy fashion with a recognition of the prospective traffic expected and the abuse of wear and tear expected in celebrations.
- All fire codes must be followed and, to the extent possible, all materials should be fireproof or fire resistant.
- Planning for crowd control must be done to avoid potential injuries caused by panic or heavy attendance.
- Food served must be handled in a sanitary manner complying with health code regulations.

## **PROBLEM AREAS**

- Stages or raised areas: Properly block these areas. Don't allow traffic without safeguards such as railings, signs or fences.
- Stairs: Make sure that stairs are in good condition with hand rails and appropriate signs where necessary.
- Parking lots: Make sure that surfaces are in good condition or don't use them. No parking or speed bumps. Make sure that they are well lit at all times and that they are cleared of ice and snow in the winter time.
- Cars parked in Lodge parking lots: Lodges are not responsible for any damage to parked cars. The owner's insurance must apply. Any claim submitted by a Lodge will be denied payment.
- Injured workers: When an employee is injured, the Lodge is required to report it to its workers' compensation carrier. If the Lodge does not have such coverage, the Lodge must pay the claim out of its own pocket. The Master Liability Program never covers such claims.
- Dance floors: No waxes or other substances can be used on dance floors. If dancers are unruly, dance in an unsafe manner or jeopardize other dancers, the Lodge management should take control and stop the offending parties.
- Serving alcohol: It is most important that a person even approaching intoxication is never served alcohol.

## **SPRINKLERS STOP FIRES**



In recent years, many state municipalities and other governmental bodies have begun to require retrofitting sprinklers in facilities that have the potential to accommodate a large group (this might be 100 or some other indicated number) as well as installing sprinklers in newly constructed buildings.

It has always been recommended to all Lodges to install sprinklers when building a new Lodge because the small added construction cost is offset in a few year by the reduction in assessments under the Property Plus Program. I have now been informed that the new technology has reduced the cost of retrofitting, even where water pressure may be low. Many Lodges might benefit by considering such a solution and improving the Lodge with a short payback period derived from the reduction in the Lodge's Property Plus assessment.



## MOTORCYCLE RUNS ARE A BAD IDEA

The Master Liability Policy can not provide certificates of insurance for any such runs between Lodges or other destinations. First, it has been indicated that the Master Liability Program affords no liability protection for the actions of any rider. Secondly, such runs do not generally generate large donations to charity, an even worse idea.

In motorcycle runs from Lodge to Lodge or other points where drivers chose to have a drink, riding a motorcycle is less forgiving than driving a car. Even riding a motorcycle and drinking within the legal limits is dangerous and foolhardy for any rider.

Lodges must never serve anyone approaching intoxication under any circumstances, but even a lower service level would be in order for such riders or, better yet, serve no alcohol if such runs are to be held.

## STATE ASSOCIATION MAJOR PROJECTS

1. State accident prevention chairmen are alerted to the annual letter sent to state presidents and secretaries pointing out that **the state major project is not insured under the Self-Insured Master Liability Program.** Separate independent coverage must be obtained.
2. State associations should have D&O/Employment Practice coverage. This coverage can include all state entities, including the major project. Remember, if a Lodge is sued for employment discrimination, wrongful discharge or harassment, the claimant might also name the state association as a defendant. If the state association does not have D&O coverage, it will have to pay for its own defense, even for a frivolous claim.

## WORKERS' COMPENSATION

Here are some reminders:

- No coverage is provided under the Master Liability Program: the Master Liability Program does not, under any circumstances, cover any claim made by an employee of the Lodge. Therefore, every Lodge must obtain valid Workers' Compensation coverage in the state of its location. It is strongly recommended that all Lodges obtain a minimum premium policy, even if the Lodge has no regular employees. This is recommended because, if any employees make a claim (even a frivolous one), the Lodge will have to defend itself at its own expense unless a Workers' Compensation policy has been obtained.
- Volunteer coverage may be available: In some states, volunteer coverage can be obtained at a very little additional cost when a Lodge obtains a Workers' Compensation policy. If such coverage is obtained, any volunteer injured while working for the Lodge will receive payment for all medical bills and other benefits for the injury as determined by the specific state. Since this varies by state, the matter must be reviewed by each individual Lodge.
- Do not report Workers' Compensation claims to Gallagher Bassett: When the Lodge has an injured employee, this incident **MUST NOT** be reported to Gallagher Bassett. This claim **MUST BE** reported to the Lodge's Workers' Compensation carrier. Reporting this type of incident to Gallagher Bassett confuses the issue and may result in state violations for not reporting to the Lodge's own Workers' Compensation carrier in a timely fashion.
- O.S.H.A. Inspections: To comply with an unlikely inspection by O.S.H.A.. Each Lodge should maintain the employer's first report of injury as well as other data, a log indicating the name of the injured with the date of accident and reporting and an indication of the type of injury. These should be available for any O.S.H.A. inspector.



## AMERICANS WITH DISABILITIES ACT

The Accident Prevention Manual makes some comments on this Act (Page 15) which remains essentially correct; however, Lodge management should be aware that Congress is in the process of very likely revamping this law and applicable regulations are being prepared. It is good advice that all Lodges should consider this Act in the process of remodeling or construction.

The requirements for private clubs may be less stringent than for places of public accommodation but make sure that the case for labeling the Lodge or a portion of the Lodge as a place of public accommodation can not be made by the use and actions taken by the Lodge.

As indicated in the Manual as well, reasonable accommodations must be made for Lodge employees. WE WOULD FURTHER EMPHASIZE that any revision of the Lodge to provide accommodations such as ramps, restrooms, doors, etc. must meet local code requirements. It is not acceptable to have volunteers or hired persons do a job that creates a code violation that can lead to a liability claim for negligence not related to this Disabilities Act.

All Lodges should review the compliance of all ramps, doors and restrooms presently in use to make sure that such areas or facilities are proper. If such areas or facilities are not in compliance, they should be corrected.



## HAZARDOUS FUNDRAISING EVENTS

We have recently received requests from various Lodges for certificates of insurance naming other parties such as governmental bodies or facility owners as additional insureds for events with a high potential for serious accidents. Many times, these are fundraising events that generate a small amount of contributions to the Lodge in relation to the potential cost of a catastrophic claim or even a moderate injury.

Page 65 of the "Accident/Claim Prevention Manual" enumerates some of these events and provides additional information.

Recent requests have involved requests to insure facility owners for the proposed service of alcohol or events such as tractor pulls, demolition derbies, races, road blocks, etc. The Master Liability Program was not designed to provide liability for such events or to provide protection to facility owners or governmental bodies that control streets and parkways.

Lodges should not engage in such activities in that the Master Liability Program assumes the first million dollars of each claim. Also, increasing exposure in hazardous areas is not fair to a Lodge conducting business of the Lodge on a normal basis.

Other not-for-profit organizations that have obtained individual policies of insurance in the general market would find it difficult to obtain certificates for any events and would also not get them for the mentioned hazardous events.



## CHILD SUPERVISION

Don't let members, guests or anyone using the premises allow children to play or in any way use the Lodge premises or facilities without appropriate adult controlled supervision. This should be a strictly followed rule without exception.

If any group uses, rents or participates in events at the Lodge, the group should indemnify and hold harmless the Lodge and, among other duties, agree to be responsible for the supervision, control and well-being of any minors in such groups or accompanying the group to the Lodge.



### **SAFETY AWARENESS**

The two major insurance programs created by the Statutes of the Order are now essentially self-insured. The Liability Program has a \$1,000,000 self-assumption for each occurrence. The Property Plus Program has a \$750,000 self-assumption for each loss.

If these programs are to continue to benefit the Order, a team effort must be made to avoid loss. Every loss is the individual member's loss. Lodge management must think safety. In the property area, these policies can't be viewed as a means of maintenance.

- Do not think about how to make a claim but how to avoid a claim.
- How can I make sure that a Lodge will never serve a person approaching intoxication?
- How will we make sure there is no hazard on which a person can fall?

To keep the great benefits of these programs, all must think safety.

### **LODGES OWNING SUBSTANTIAL COMMERCIAL PROPERTIES**

Some Lodges have ownership of large commercial buildings or shopping centers. These should be insured under a separate business policy. The Self-Insured Master Liability Program can't be used to provide coverage to such commercial operations, but this does not mean that the coverage can't be applied for the premises risks associated with the rental of a small portion of the Lodge building.

### **LODGE ACCIDENT PREVENTION MANAGERS**

Has every Lodge complied with the Statutes of the Order (12.070) and appointed this position? See Page 56-57 of the Accident Prevention Manual for a suggested description.

### **CONSTRUCTION AT LODGES**

When there is to be construction at a Lodge, management must be aware of possible problems. This applies to repairs, partial construction and total renovation.

- In every case, those doing the work should indemnify the Lodge from any claims arising out of the work, except in the case of the sole negligence of the Lodge. The party doing the work must name the Lodge as additional insured under its general liability policy (this should be done, even if the contractor is a member).
- Make sure that work is guaranteed to protect the Lodge.
- The Lodge should never take on the role of general contractor. If the Lodge takes on this duty, it creates possible obligations and duties the Lodge is neither capable to perform or properly covered for by the Master Liability Program. Lodges should not be misled by potential subcontractors or others providing bad advice in this regard.
- If the Lodge is constructing a new building, putting on an addition or making a substantial renovation, the Lodge must contact Aon Risk Services to make sure that property coverage is obtained. A new building requires builder's risk coverage so a Lodge should contact Aon Risk Services before construction begins. Always consider full or partial sprinkler installation if the Lodge has sufficient water pressure.

