

Lessons Learned From Losses: June 2009

Covered or not covered?



We are receiving reports of injuries to junior firefighters injured while at the scene of a fire, participating in drills and at the firehouse performing a variety of tasks. These incidents are being reported as workers' compensation claims, just as a regular volunteer firefighter's claim would be reported.

According to the New Jersey Workers' Compensation statute however, junior firefighters are not eligible for workers' compensation benefits. The workers' compensation statute specifically identifies who is eligible for workers' compensation benefits; it also mandates what type of volunteers, or unpaid employees are eligible for workers' compensation benefits. Special legislation was enacted to provide workers' compensation benefits to the following "unpaid volunteers": elected and appointed officials, board of education members, volunteer firefighters, first aid or rescue squad workers and reserve or auxiliary police officers.

Title 40A:14-95 provides the basis for the establishment of a junior firefighter auxiliary program. A copy of this legislation is attached. We recommend that same be reviewed to identify compliance with this statute. We have also attached an Emergency Services Memorandum that discusses New Jersey labor law and volunteer fire companies. New Jersey employers, including volunteer fire companies, can be penalized and fined if they are found to be in violation of the New Jersey Child Labor laws. The laws are strict; minors are not allowed to be engaged in hazardous activities.

For more information on teen safety in the workplace, you can also access the Department of Labor website at <http://www.dol.gov/dol/topic/youthlabor/index/htm> and www.youthrules.dol .

We also recommend that you review, with your RMC, alternative insurance policies that may be available for junior firefighters, and similar programs. As always, we evaluate each and every claim on its own merits. Additionally, this was not intended to provide a legal opinion. If you have any further questions, please contact your solicitor.

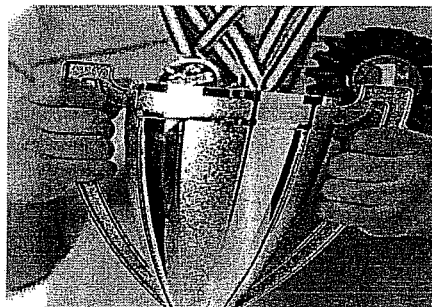
Scibal Team Highlights:

Every year Scibal awards a Claim Excellence Award to one claim adjuster for overall excellence in claim handling. This year, Karen Berenato, Senior Claim Analyst in Diane Lefever's unit, received this award. Karen provided an in-depth investigation on one claim that ultimately resulted in the claim being dismissed via Summary Judgment. She provides ongoing training to her peers, is team-spirited and consistently rates over a 96% in her Score Audits.

Scibal also awards a Service Award to one claim unit assistant. Again, a member of Diane's team won this award. Technical Assistance Mary Maguire was awarded the Service Award for 2009. Like Karen, Mary always goes above and beyond the scope of her job duties.

Karen, Mary and Diane Lefever should be commended on their achievements and proven dedication to their clients!

Thank you!



refunds shall not exceed the amount of money on hand for the account of the fire district upon said dissolution.

Adopted. L. 1971, c. 197, § 1.

40A:14-93. Illegally created fire district; abatements or refunds. Upon a written application therefor, of at least 20 legal voters residing in a fire district, alleging that the fire district was not created in accordance with law; and upon a determination by the governing body that said allegation is fully supported by uncontradicted evidence and that taxes have been assessed on their property, the governing body of the municipality, by resolution, may abate and remit all of such unpaid taxes and authorize refunds of taxes paid to the taxpayers.

Adopted. L. 1971, c. 197, § 1.

40A:14-94. Formation of new municipalities; abolition of fire district; apportionment of assets and liabilities. A fire district shall be deemed abolished when the municipality in which it is located shall be divided and formed into or become part of 2 or more new municipalities.

Upon such abolition the governing bodies of the new municipalities and the treasurer or custodian of the funds of said fire district shall meet at a time and place to be designated by the clerk of the new municipality wherein the fire district or greater part thereof is located. The notice of the meeting shall be served personally or by certified mail upon each member of the board of said fire district, not less than 10 days prior to the meeting. At the meeting the property of the fire district shall be apportioned between or among said new municipalities in proportion to the aggregate value of the buildings and contents of such fire district located respectively therein as ascertained from the last assessment for said fire district.

A written report of such apportionment, signed by the members of the governing bodies present at said meeting, shall be made. The report shall set forth the current assets and liabilities and the division of the money and property of the fire district. The taxpayers of the respective new municipalities shall be liable to pay their proportion of the debts, if any, of said fire district.

Upon the ascertainment of the amount of money to be paid and the property to be distributed and the manner of such payment and distribution to each municipality, the treasurer or custodian of funds of said fire district shall pay and transfer said moneys and property accordingly.

Adopted. L. 1971, c. 197, § 1.

40A:14-95. Establishment of Junior Firemen's Auxiliary. In any municipality or fire district in this State maintaining a volunteer fire department, or where there shall exist one or more incorporated volunteer fire companies affording fire protection to said municipality or fire district the membership whereof are serving under the jurisdiction of and with the consent of said municipality or fire district, it shall be lawful for the governing body of such municipality, or the board of commissioners of such fire district to provide, by ordinance or resolution, for the establishment of an auxiliary to any such volunteer fire department or company to be known as the Junior Firemen's Auxiliary.

Adopted. L. 1971, c. 197, § 1.

40A:14-96. Eligibility for membership in Junior Firemen's Auxiliary. No person shall be eligible for membership in the Junior Firemen's Auxiliary who is less than 14 or more than 21 years of age. Persons between the ages of 14 and 21 shall be required to obtain permission to join the auxiliary from their parents or

40A:14-97 MUNICIPALITIES AND COUNTIES

guardian. Such permission shall be in writing and acknowledged or proved in the manner required by law for deeds to real estate to be recorded.

Adopted. L. 1971, c. 197, §1. Amended. L. 1999, c. 318, §1, effective January 6, 2000.

40A:14-97. Insurance coverage for members. A fire district may provide members of a Junior Firemen's Auxiliary established as an auxiliary to a volunteer fire department or to an incorporated volunteer fire company within the fire district with the same coverage as provided for the regular volunteer firemen of the fire district under N.J.S. 40A:14-37 and 40A:14-38.

Adopted. L. 1971, c. 197, §1. Amended. L. 1979, c. 230, §4.

40A:14-98. Rules and regulations governing Junior Firemen's Auxiliary. The governing body of the municipality or the board of commissioners of the fire district shall, before authorizing the establishment of any Junior Firemen's Auxiliary, formulate rules and regulations to govern the activities of the auxiliary. The rules and regulations shall provide for the training of the auxiliary for eventual membership in the volunteer fire department of the municipality or fire district or in any such volunteer fire company or companies affording fire protection therein, and shall further provide that no junior fireman shall be required to perform duties which would expose him to the same degree of hazard as a regular member of a volunteer fire company. Activities of junior firemen under 16 years of age shall be limited to (1) attending meetings of the Junior Firemen's Auxiliary; (2) receiving instruction; (3) participating in training that does not involve fire, smoke, toxic or noxious gas, or hazardous materials or substances; and (4) observing firefighting activities, while under supervision.

Adopted. L. 1971, c. 197, §1. Amended. L. 1999, c. 318, §2, effective January 6, 2000.

40A:14-99. Blank.

40A:14-100. Section 40:47-51 saved from repeal. Section 40:47-51 of the Revised Statutes is saved from repeal. [The act saved from repeal by said section, which section is now saved from repeal, provided that cities and municipalities not having a paid fire department prior to March 1, 1886 may create and maintain such a fire department and are authorized to establish said department by referendum and provide for the appointment, powers and duties of a board of fire commissioners.]

Adopted. L. 1971, c. 197, §1.

40A:14-101 through 40A:14-103. Repealed.

Repealed. L. 1989, c. 157, §1, effective January 1, 1990.

40A:14-104 through 40A:14-105. Repealed.

Repealed. L. 1979, c. 326, §2.

40A:14-105.1. "The Volunteer" designated official song. The song of the volunteer firemen of New Jersey shall be the words and music of the song entitled "The Volunteer" composed by Wayne Swezey.

Adopted. L. 1982, c. 90, §1.

C. Police—Counties.

40A:14-106. County police; establishment. The governing body of any county, adopting rules for the regulation of traffic upon the county highways and roads and for the enforcement of laws pertaining thereto, by ordinance or resolution, as appropriate, may create and establish a county police department and force and provide for its maintenance, regulation and control. Except as otherwise provided by law, the governing body may appoint a chief of the department and such other members, officers and personnel as shall be deemed

To: Volunteer Fire Companies. Rescue Squads. First-Aid Squads
Re: New Jersey Child Labor Laws

I. Purpose and Scope

During the past year, we have responded to a number of verbal and written inquiries regarding the administration of minors in the fire and emergency medical services. This bulletin addresses some issues of the N.J. Labor Law as it pertains to volunteer fire companies, rescue squads, and emergency medical services, (EMS).

Nothing contained in this bulletin is intended to replace the provisions of the applicable statutes. You are urged to consult with your solicitor to develop your own guidelines governing the employment of minors in your municipality.

II. General Provisions

- A. Minors at least 14 years of age may be volunteers.
 - 1. No employment certificates are required.
 - 2. There are no restrictions on the at-work hours
- B. Minors under 16 years of age are not permitted to work in connection with power-driven machinery. (This includes fire trucks and ambulances.)
- C. No junior firefighter shall be required to perform duties that would expose him or her to the same degree of hazard as a regular member of a volunteer organization.
- D. Minors under 18 years of age may not do the following:
 - 1. Work in connection with injurious quantities of toxic or noxious dust, gases, vapors, or fumes. (Minors cannot fight fires!)
 - 2. Oil, wipe, or clean machinery in motion or assist therein.
 - 3. Use grinding, abrasive, polishing, or buffing machines.
 - 4. Operate or repair elevators or other hoisting apparatus.
 - 5. Be present any place where heating, melting, or heat treatment of metals is carried on (welding and cutting torches).
- E. The following is a list of recommended age requirements for operating various equipment:
 - 1. Oxygen - Minors must be 16 years old to ride in an ambulance containing oxygen cylinders. Minors at least 16 may administer oxygen in the manner in which it is administered by members of the EMS.
 - 2. Transportation - Minors must be 16 years old to ride in an ambulance or fire engine to an emergency. Minors cannot be in the presence of or exposed to any toxic or noxious gases, hazardous materials, fires, etc.
 - 3. Suction Unit - Minors must be 16 years old to either train with or operate.

4. Porta Power - Minors must be 16 years old to either train with or operate.
5. Seat Belt Cutter - If the cutter is not power-driven, minors at least 14 years may be trained on it. If it is power driven, minors must be 16 years of age to train with and operate.
6. Axe - Minors may train at age 14.
7. Air Chisel - Minors may train with and operate at age 16.
8. Crow Bar - Minors may train at age 14.
9. Jaws of Life - Minors must be 18 years of age.
10. Come Along - Minors must be 18 years of age.
11. Fire extinguisher - Since a fire extinguisher is used to fight fires and minors under 18 are not permitted to fight fires, the minimum age is 18.
12. Flares - Minors may train at age 14. May use on a scene 16 years of age.
13. Direct Traffic - Minors must be 16 years of age.

F. All junior firefighters or EMS cadet members must be seated within the vehicle, with seat belts fastened, while riding on any apparatus or ambulance.

It is strongly recommended that the minimum age for participating in a junior firefighter rescue squad or EMS cadet program be at least 16 years of age.

Note: The Double Indemnity Law does not apply to junior firefighters who are injured in the line of duty while participating in a junior firefighter's program established in accordance with N.J.S.A. There is no such exemption for first-aid or squad/rescue squad cadets or police explorers.

Note: This bulletin does not address the Boy Scouts of America's Police Explorer or Fire Explorer programs. Under these programs, a minor must be 15 years of age or in ninth grade, but not yet 21 years of age. The scouting program provides insurance for minors enrolled and issues guidelines and procedures. However, child labor laws continue to apply.

Contact your local chapter of Boy Scouts of America or:

Insurance and Risk Management
Boy Scouts of America
1325 West Walnut Hill Lane
P.O. Box 152079
Irving, TX 75015-2079
972-580-2031

Information contained in this bulletin was obtained from sources believed to be knowledgeable and authoritative.

RE: New Jersey Department of Labor, Division of Workplace Standards
N.J.S.A. 34:2-21.17 Prohibited Activities for Minors
N.J.S.A. 40A: 14-95, 96, 97, 98
Chapter 83, Laws of New Jersey, 1981
Amendment of 34:2-21.17
Boy Scouts of America