

RISKY BUSINESS

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Miami **V**alley **R**isk **M**anagement **A**ssociation

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FYI – FYI August 2022 – The Port in the Storm

By Tom Judy

The commercial insurance market has been especially stormy for public entities in recent years due to escalating premiums and decreased availability of coverage. The good news is that public entities who participate in risk pools have found a “port in the storm.” Risk pools help thousands of public entities to mitigate the cost increases of the commercial insurance market, have stable premiums and superior coverage, receive dividends, have greater influence over claims settlement, obtain value-added services that will help reduce their losses, and be a member-owner with a vested interest in the outcome of the pool.

Stable Pricing

Pooling is designed to provide coverage availability and pricing stability to an otherwise unpredictable market. Even though many pools purchase reinsurance or excess insurance from the insurance industry, they normally do so with a very high retention (i.e., self-insured coverage) so volatile price fluctuations in the commercial marketplace are muted. MVRMA minimizes the financial impact of the commercial market by self-insuring the first \$500,000 of its liability claims and \$250,000 of most property claims, representing over 99% of all the pool’s claims.

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FYI...Continued

Savings Passed on to the Taxpayer

Pools have saved taxpayers billions of dollars. Several factors create this savings:

Pools add no profit margin, which can be 10% to 15% for commercial entities. The Association of Governmental Risk Pools (AGRiP) estimates that commercial insurers' profit margin alone accounts for taxpayer savings of at least \$1 billion over the past forty years.

Pools in some states – such as Ohio – are not subject to regulatory costs.

Pools generally spend less than commercial insurers on advertising and marketing. This is especially true of MVRMA. Over time, this can reduce costs by another 10% compared to commercial insurers.

Pools are usually exempt from taxes paid by commercial insurers.

Pools generally have lower overhead costs than commercial insurers.

Perhaps most importantly, pools emphasize helping their members to control their losses.

In total, AGRiP estimates that, over the long run, pool members have reduced their cost of insurance by an average of 15% to 25% compared to buying commercial insurance. The phrase “over the long run” is key as a pool may not necessarily be the lowest cost option in any given year. Commercial insurers may see a profit opportunity and use their financial resources to undercut pools' pricing on a short-term basis. The challenge for local governments is to understand that such short-term savings will likely be surrendered over time due to the greater long-term pricing volatility in the commercial insurance market or even a decision by the insurer to no longer write their business.

Pool members benefit in the long-term if they view the relationship between a pool and its members as a partnership with both parties recognizing a broader and closer obligation to each other than exists in the transactional relationship between a commercial insurer and its insured. Pools strive to help all members improve their risk profiles and decrease their costs over time. The various pool members rely on each other not just for insurance coverage, claims management and loss control, but also for new ideas, best practices and shared problem solving. This culture of collaboration allows the members to learn from each other and to efficiently share resources.

When money is tight, it may be tempting to look at how much you spend on insurance-related costs and try to cut back. Do not automatically assume that another insurer who may promise lower initial cost is a better value in the long term. There are too many examples of first year premium savings turning into price increases in subsequent years to recoup the first year's discounted pricing. Or worse yet, the insurer decides to no longer write your business and leaves you scrambling to find another insurer. Also, it is likely the insurer will not offer the individualized loss control services available from a pool such as MVRMA. These factors will result in unwanted additional demands on your already full schedule.

Please feel free to contact MVRMA staff if you have questions about MVRMA or pooling in general.

COUNSELOR'S COMMENTS

Recent Amendment to Ohio Revised Code Section 9.68 expands right to keep and bear arms to knives; local laws regulating knives should be rescinded prior to September 13, 2022

By Surdyk, Dowd and Turner

Governor DeWine recently signed into law Am. Sub. S.B. 156 which amended O.R.C. 9.68 to give the right to bear knives the same status as the right to bear firearms. The new law goes into effect on September 13, 2022.

As Amended O.R.C. 9.68 (A) provides:

Sec. 9.68. (A) The individual right to keep and bear arms, being a fundamental individual right that predates the United States Constitution and Ohio Constitution, and being a constitutionally protected right in every part of Ohio, the general assembly finds the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, other transfer, manufacture, taxation, keeping, and reporting of loss or theft of firearms, their components, and their ammunition, *and knives*. The general assembly also finds and declares that it is proper for law-abiding people to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves or others. Except as specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, including by any ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process, may own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm, part of a firearm, its components, and its ammunition, *and any knife*. Any such further license, permission, restriction, delay, or process interferes with the fundamental individual right described in this division and unduly inhibits law abiding people from protecting themselves, their families, and others from intruders and attackers and from other legitimate uses of constitutionally protected ~~firearms~~arms, including hunting and sporting activities, and the state by this section preempts, supersedes, and declares null and void any such further license, permission, restriction, delay, or process. (Recent amendments in italics).

“Knife” means a cutting instrument and includes a sharpened or pointed blade (O.R.C. 9.86 (C)(4). “Arms” includes firearms and knives (O.R.C. 9.68 (C) (5). The clear effect of this amendment is to extend the provisions of 9.68 to knives.

COUNSELOR'S COMMENTS...Continued

O.R.C. 9.68 (B) was not impacted by the amendment. Section B broadly provides a cause of action for money damages, declaratory relief and/or injunctive relief to any person, group or entity adversely affected by any manner of ordinance, rule, regulation, resolution, practice, or other action **enacted** or **enforced** by a political subdivision in conflict with section (A). It further provides that the court **shall** award reasonable expenses (including attorney fees, expert witness fees, court costs and fees for loss of income) to the prevailing person, group, or entity.

It is worth noting, paragraph (D) of 9.68 recognizes that the prohibitions on regulating arms (including knives) does not apply to (1) a zoning ordinance prohibiting commercial sales in residential or agricultural districts, and (2) zoning ordinances specifying hours of operation or geographic areas for sale of arms provided they are consistent with other retail establishments in the same area.

Based upon the “threat of citation or prosecution” language in paragraph (A), and the “enacted or enforced” language in paragraph (B) , it appears that merely having an ordinance on the books that regulates or restricts the carrying of a knife, such as in a city park, , despite any attempt to enforce would allow for a lawsuit to be filed for declaratory relief, injunctive relief and/or money damages. Even in the absence of actual damages, the city would be subject to significant expenses such as attorney fees, expert witness fees and costs. It is therefore recommended that each member consult with their law director to ascertain whether there are any existing ordinances that regulate ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, or other transfer, manufacture, taxation, keeping, and reporting of loss or theft of arms, including knives, and take steps to rescind them prior to the effective date of September 13, 2022. To the extend any member city has existing signs in parks and other public grounds prohibiting the carrying of knives, they should likewise be removed prior the effective date of the amendment.

Loss Control Lowdown...

Starr Markworth

Vector Solutions Online Training Programs Available to MVRMA Member Cities

MVRMA has worked with Vector Solutions (formerly TargetSolutions) for the past fifteen years to provide high quality web-based training programs geared to the public sector employees, including public safety .

Vector Solutions is the leading provider of internet-based training and tools for public entities and self-insured risk pools. More than 7,000 public entities use Vector Solutions to manage training online.

According to TargetSolutions, here are the top 10 ways agencies are benefiting from TargetSolutions’ online training courses and applications:

Loss Control Lowdown...Continued

- Achieving compliance with mandatory training requirements
- Making training more convenient
- Realizing valuable cost savings
- Educating employees on safety and reducing liability
- Increasing comprehension of training material
- Ensuring training has been delivered
- Creating alert notifications for upcoming assignments
- Generating detailed training reports and tracking progress
- Combining training with important and relevant policies
- Going mobile and reducing carbon footprint

MVRMA offers an annual subscription for only \$300 per year to any MVRMA member. For the one annual fee, members will have access to the entire MVRMA training catalog and an unlimited number of employees may utilize the training program.

The MVRMA training catalog includes Driver Training, Human Resources, OSHA/Safety Compliance and Supervisory training.

MOTOR VEHICLE SAFETY

TargetSolutions' Online Driver Training & Compliance Program offers organizations a solution to reduce motor vehicle losses. Driver curriculum is designed to change unsafe driving behavior and reinforce critical safe-driving concepts. Courses have been tailored to meet the varied needs of drivers of automobiles, large trucks, and passenger vans. Supervisor curriculum is designed to provide supervisors with the training necessary to maintain a staff of safe and capable drivers. Driver training courses and curriculum for supervisors are available.

HUMAN RESOURCES

TargetSolutions' Human Resources courses are designed to supplement the course catalog by providing training that is relevant and essential to all employees. Courses covering Employment Practices for Supervisors cover issues encountered in the workplace for individuals tasked with making employment decisions, including issues of harassment, hiring and termination, discrimination, evaluation, and documentation.

OSHA & COMPLIANCE

TargetSolutions' online courses can be used to help comply with OSHA and other federal and state regulatory agency training mandates. Complete all of your required compliance training courses online, eliminating the logistic issues inherent in traditional training methods. OSHA & Compliance courses cover the following categories: General Safety, Environmental Awareness, Human Resources, and supervisor-related course topics.

Please contact Starr Markworth at smarkworth@mvrma.com for more information regarding utilizing the TargetSolutions online training programs.



Broker's Beat

Cybersecurity

Special Events Coverage

Special events can pose unique risk management challenges for your City. One of the key things to think about leading up to a special event is, should we secure special events liability coverage? What is a special event? Defined, special events are one-time or infrequent occurrences of limited duration that provide the public or niche interest groups with leisure and social opportunities beyond everyday experiences.

Planned special events can include sporting events, concerts, festivals, and conventions occurring at permanent multi-use venues (e.g., arenas, stadiums, racetracks, fairgrounds, amphitheaters, convention centers, etc.). Less frequent public events can include parades, fireworks displays, bicycle races, sporting games, motorcycle rallies, seasonal festivals, and milestone celebrations at temporary venues.

Transferring the risk associated with a special event should be explored whenever possible. Special events liability insurance is an option to consider. Special Events Insurance Programs are designed to provide comprehensive liability coverage to public entities for the myriad events held on their premises. Since many of these events are hosted by under-insured third parties in public assembly facilities, these programs empower the host institution to insure its events, providing an additional layer of protection for the public entity and the event holder and/or organizer.

For more information about Special Events coverage and if it makes sense to secure a standalone policy, please get in touch with Alliant and/or discuss with MVRMA.

Calendar of Events

Upcoming Training Events

Recognize and Respond—Police Interaction with Autistic Individuals—August 19th—Location TBD
CDL Training—TBD

Upcoming Board Events

Committee Meetings - Via Zoom

Risk Management - September 1st- 10:00 AM

Finance - September 1st - 1:30 PM

Board Meeting

September 12th - Home2Suites, Centerville 9:30 AM

From The Board Room

June 20, 2022

- Approved Annual Report
- Approved 7/1/22 Property, Excess Cyber and Deadly Weapons Coverage Renewal
- Approved 2022-23 Property Coverage Document
- Approved 12/31/21 Actuarial Reserve Opinion
- Approved Amended Fee Schedules for Defense Counsel Firms
- Approved Agreement with Sedgwick for Strategic Planning Development