



# **Auto Dealers Will Soon Have to Maintain OSHA 300 Forms**

Insights

11.17.14

Come January 1, 2015, OSHA's newly announced Recordkeeping changes will cause the most problems for manufacturers because the amputation reporting requirements will trigger more OSHA inspections, but the LARGEST group affected will be auto dealers. Traditionally retail new and used car dealers have not had to maintain the OSHA 300 injury and illness log and post the annual Summary from February 1 through April 30.

## **Auto Dealers No Longer Partially Exempt**

The inclusion of auto dealers on the list of employers who will have to maintain OSHA 300 Logs and post the OSHA 300a Injury Logs is not as significant a change as having to report every single hospitalization and the loss of even a fingertip, but if not effectively managed will create significant legal problems for dealers. Currently, auto dealers are not a particular focus of OSHA, and do not experience that many recordable injuries, but once their data is eventually entered into OSHA's system, we will inevitably see more OSHA attention directed toward dealers.

The biggest immediate problem is that some dealers will mishandle the OSHA recordkeeping. Even the increasingly large dealership groups often do not have a well-developed corporate safety function and dealership safety duties fall on a number of different personnel. Probably a clerical will maintain the records at each dealership, perhaps the same person handling workers comp paperwork. OSHA, Workers Comp and Wage-Hour recordkeeping are very different and absent training, dealers will mishandle the logs. An effort to coordinate the records from corporate will also create problems.

## **Suggestions for Dealers to Master the New OSHA Recordkeeping Obligations**

Here are a few suggestions for those employers soon to be required to maintain OSHA Injury and Illness Recordkeeping:

1. Relax, it's not that bad once you get used to it.
2. The first question is: "Is the injury work related?" The definition is below, but OSHA takes a really broad approach in interpreting this definition.

You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a

pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Section 1904.5(b)(2) specifically applies.

3. The second question is “Does the work-related injury or illness fit into one of the following categories?”

a. Death. See Section 1904.7(b)(2).

b. Days away from work. See Section 1904.7(b)(3).

c. Restricted work or transfer to another job. See Section 1904.7(b)(4).

d. Medical treatment beyond first aid. See Section 1904.7(b)(5).

e. Loss of consciousness. See Section 1904.7(b)(6).

f. A significant injury or illness diagnosed by a physician or other licensed health care professional. See Section 1904.7(b)(7).

4. Read carefully the definitions of “first aid” events which are not recordable injuries. Many employers record items which are “First Aid.” The OSHA regulations list “first aid” events and strictly apply the list. If a response activity is not on the list, it’s not “first aid.” The list doesn’t always make sense. As an example, OSHA says that prescribing an exercise or stretching regime for pain is a “medical treatment,” which makes the pain a “recordable” event. Here is the list:

(A) Using a non-prescription medication at nonprescription strength (for medications available in both prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);

(B) Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);

(C) Cleaning, flushing or soaking wounds on the surface of the skin;

(D) Using wound coverings such as bandages, Band-Aids, gauze pads, etc.; or using butterfly bandages or Steri-Strips (other wound closing devices such as sutures, staples, etc., are considered medical treatment);

(E) Using hot or cold therapy;

(F) Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes).

considered medical treatment for recordkeeping purposes),

(G) Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.).

(H) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;

(I) Using eye patches;

(J) Removing foreign bodies from the eye using only irrigation or a cotton swab;

(K) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;

(L) Using finger guards;

(M) Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or

(N) Drinking fluids for relief of heat stress.

5. OSHA recordkeeping differs a lot from workers comp recordkeeping. As examples,

a. A positive drug test result does not change record ability even though it may affect workers compensation;

b. OSHA standards make an injury more likely to be “work related” than workers comp injuries;

c. The employer must complete the Form 301 (which is usually the same form as your state’s “First Report of Injury” form) within seven days, which does not give you much time to determine if the injury is work related;

6. Seemingly “nitpicky” details count. Go to [the “Recordkeeping” page on www.OSHA.gov](#), and first print the OSHA 300 Log. This is the main document. Then print the Form 301, which is similar if not identical to most states’ workers comp First Report of Injury form. Read the Instruction Guide associated with [the Form 300](#) you printed. When you have specific questions, go to the [“OSHA Recordkeeping Handbook](#) on the Recordkeeping page.

7. You begin counting days away on the day after the injury occurred or the illness began.

8. Pay attention to instructions about which and how many columns to “check.”

9. Do not forget to have the top executive in the location sign the form when you post it each year. Save the copy you signed. Many employers retain the logs electronically which obviously are unsigned.

## **What about Cal-OSHA?**

Cal-OSHA has not yet changed its Recordkeeping requirements which partially exempt new and used auto dealers. See [Cal-OSHA's List of Partially Exempt Employers](#) and the [Cal-OSHA Recordkeeping Subject Index](#).

Howard A. Mavity

Fisher Phillips

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**Howard A. Mavity**  
Partner  
404.240.4204  
Email