

Top 5 Riskiest States for Employee Lawsuits: Hiscox

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Four states – California, Illinois, Alabama and Mississippi – along with the District of Columbia, are the top five riskiest places in the country for employee lawsuits. Businesses in these states and jurisdictions face a substantially higher risk of being sued by their employees compared to the national average, according to study of employment practices litigation (EPL) data by specialist insurer Hiscox.

According to the study, on average, a U.S.-based business with at least 10 employees has a 12.5 percent chance of having an employment liability charge filed against it. However, businesses in several states face a much higher level of exposure to litigation, according to the research by Hiscox.

California has the most frequent incidences of EPL charges in the country, with a 42 percent higher chance of being sued by an employee for establishments with at least 10 employees over the national average.

Other states and jurisdictions where employers are at a high risk of employee suits include the District of Columbia (32% above the national average), Illinois (26%), Alabama (25%), Mississippi (19%), Arizona (19%) and Georgia (18%).

Lower-risk states for EPL charges include West Virginia, Massachusetts, Michigan, Kentucky and Washington.

“Federal level information on employee charges is generally available, but state specific information is more difficult to aggregate,” said Bert Spunberg, senior vice president and practice leader for Executive Risk at Hiscox. “Understanding employee litigation risk at a state level is a crucial step for an organization to establish the processes and protections to effectively manage their risk in this changing legal environment.”

State laws can have a significant impact on risk, Spunberg said. For example, the employee-friendly nature of California law in the area of disability discrimination may contribute to the high charge frequency in the state. Discrimination cases filed at the state level in California are brought under the Fair Employment and Housing Act (FEHA). FEHA applies to a broader swath of businesses, covering any company with five employees, versus a 15-employee minimum for cases brought under federal law as outlined in Title VII of the Civil Rights Act.

Not only are employment lawsuits more likely in those states, but the likelihood of catastrophic verdicts is also significantly higher, according to the report by Hiscox.

“Unlike their federal counterparts, where compensatory and punitive damages combined are capped at \$300,000.00, most state employment statutes impose no damages ceilings,” said Mark Ogden, a managing partner of Littler Mendelson, a large California-based employment and labor law firm with 55 offices globally. “Consequently, employers in high-risk states must ensure that their workforces are adequately trained regarding workplace discrimination, harassment and retaliation and that policies forbidding such conduct are strictly enforced.”

Hiscox’s portfolio of professional liability and other commercial insurance for U.S. businesses includes executive risk insurance coverage.