

# THE REPORT

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## CYBER THREAT

### Business Lessons from the Sony Pictures Attack

**O**N THE HACKING scale, the attack on Sony Pictures' computer systems is pretty much the worst-case scenario for any business.

The amount of data breached is shocking: scripts were leaked and as-yet unreleased movies were also stolen and loaded up to pirate movie download sites.

Social Security numbers and details for a trove of big stars, including superstars like Sylvester Stallone, were also published online, in addition to Social Security numbers of 47,000 current and former Sony Pictures employees.

Furthermore, many employees' computers were compromised, with all of the data stolen before the malicious software the hackers installed wiped entire hard drives clean.

The financial damage could easily reach into the hundreds of millions of dollars.

And while it's surmised that the North Korean government was behind the hack, the attack illustrates what could become

the future of corporate warfare.

Imagine companies hiring overseas gangs to infiltrate a competitor's data bases.

Sound far-fetched? You shouldn't bet on it. The Sony hack has set a new bar for cyber espionage and sabotage.

Anyone who runs a business – whether it's a mom-and-pop shop or a multinational behemoth like Sony – needs to pay close attention to what happened, and begin to take data security seriously.

Though even the FBI has said that few companies – as little as 10% – could have prevented an attack like the one that targeted Sony, much of the damage could perhaps have been avoided had the company had better data-security protocols in place.

Claiming helplessness in the face of a big hack is not a good strategy. A breach is often an enterprise-level problem.

Sony's teachable moment is that security has to start at the top and must be part of a company's corporate culture.

#### **1 Mindful culture**

Any time a hack is perpetrated, company leaders can wind up in the spotlight, whether their personal e-mails were leaked or not. Management must learn to demonstrate a level of sophistication, nuance, sensitivity and respect when communicating internally.

Also, the Sony hack shows that many managers are too flippant in their e-mails. It could even be argued that the lack of respect exhibited in e-mails shows up elsewhere in companies – such as a lackadaisical attitude towards data security that puts personally identifiable information of employees at risk.

To be sure, few companies put under the microscope like Sony would come out looking clean. Is it unreasonable to ask for spotless behavior throughout your organization? Of course it is. Given the reality, however, it's wise to assume you'll eventually be hacked.

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**Would your costs be covered if your firm is hacked?**

**Call us!**

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**BUSINESS/ECONOMY**

# Top 10 Laws Affecting Businesses in 2015

**B**ESIDES THE prospects of growth as the economy continues expanding, every New Year is also fraught with new requirements on businesses.

Staying on top of the major developments that may affect your operation is not always easy. New laws and regulations are varied and cover a lot of ground. To make it easier on you, we bring you the top laws and regulations that you may have to contend with starting in 2015.

## 1. Affordable Care Act phase I

Starting in 2015, organizations with 100 or more full-time employees are required to offer health coverage to 70% of their full-time employees. The alternative to not providing coverage is to pay a penalty that equates to about \$2,000 per worker. Starting in 2016, they'll have to provide coverage to 95% of their staff.

While the employer responsibility provisions will generally apply starting in 2015, they will not apply until 2016 to employers with at least 50 but fewer than 100 full-time employees if the employer provides an appropriate certification described in the rules.

## 2. Paid sick leave

In California, if you have staff, you will be required to offer them paid sick leave. While most employers already do this, some don't,

and this law aims to go after the latter.

The new law does not contain an exception for small businesses and non-profits with fewer than a particular number of employees.

Under the new law, once an employee works 30 days, an employer is required to provide them with at least one hour of sick leave for every 30 hours worked. However, an employer may limit the use of paid sick leave to 24 hours, or three days, in each year of employment.

No accrual or carry-over is required if an employer provides the full amount of sick leave at the beginning of each year, allowing the employee to take sick leave before they would have otherwise accrued it. An employer is not required to allow an employee to accrue a total of paid sick leave in excess of 48 hours, or six days.

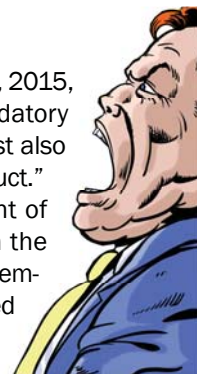
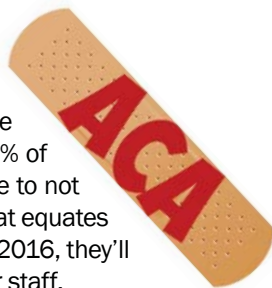
Employees are able to use paid sick time for preventive care for themselves or a family member.

## 3. Anti-bullying training

Under this new law, which took effect Jan. 1, 2015, employers that are required to provide mandatory sexual prevention training for supervisors must also include as a topic prevention of "abusive conduct."

While the law does not provide for a right of action for employees to sue for "bullying" in the workplace, there could be instances of bullied employees suing an employer if the employer failed

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# Taking Ownership of Your Assets Creates Security

At the very least consider picking up the phone if you have something to say that you wouldn't want to be broadcast on the evening news.

## 2 Take care of your assets

In the case of Sony, films were stolen, as were a lot of other assets, including scripts, budgets and even contract negotiations. How can this be prevented?

The first step for companies is to truly take ownership of their assets. Ownership is a state of mind that requires upkeep and vigilance to protect what's yours. Ownership creates security. Ultimately, this starts with corporate leadership, since fostering a sense of ownership among employees is a trickle-down process.

## 3 Maintain a strong culture

A strong corporate culture is constantly evolving. It stays ahead of the curve through leadership and a culture where employees feel invested in their work, i.e., they take ownership of the tasks assigned to them.

A state of readiness through a culture that puts security first is the only way an attack can be properly contained and managed.

The reality is that any company – whether it's the size of Sony or

a local online retailer – can be put out of commission in such a spectacular and specific way.

### Other tips:

**Back up your data** – The backup should include the operating system, application software, and data on a machine. Multiple backups should exist in different locations.

**Network monitoring** – The annual "Verizon Data Breach Investigations Report" consistently points out the need for organizations to monitor security systems. It recommends the use of software that can identify suspicious patterns that could signal an attack in progress.

**Antivirus not good enough** – The group behind the Sony attack reportedly used destructive malware, wiping the hard drive and the boot loader, making systems virtually unrecoverable. A new class of advanced threat detection and breach detection solutions is available and can inspect both network traffic and endpoint systems for subtle signs of an infection.

**Password management** – Employees should be trained to use strong passwords. Passwords for different accounts should be different.

When possible, single sign-on should be implemented to avoid password fatigue. IT policies should dictate how often employees change passwords and enforce stronger password creation. ❖

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# Employers Now Liable for Labor Contractors' Obligations

to conduct the required training.

Under present state law, companies with 50 or more employees must provide two hours of anti-sexual harassment training and education to supervisors within the first six months of them assuming their position as a supervisor. Additionally, employers must provide refresher anti-sexual harassment training every two years.

## 4. Liability for labor contractors

AB 1897 requires client employers to share, with their labor contractors, liability for the payment of wages and failure to obtain valid workers' compensation coverage. This measure squarely takes aim at outfits called professional employment organizations (PEOs), that bundle payroll and workers' comp services into one and become the employer of record, allowing the hiring company to not worry about these details. The selling point is removing this administrative burden.

But, some PEOs have failed to secure workers' comp coverage in the past or greatly underreported payroll to reduce the premiums they pay – and some have failed to adequately pay the workers.

## 5. Safety violation abatement credits

This new law allows employers to get a chance of reducing penalties for serious violations if they abate the violation during the citation appeals process with Cal/OSHA.

Currently, abatement credits are granted at the time of citation. Employers are required to submit a signed statement under penalty of perjury that they have complied with the abatement terms.

Under the new law, penalty modification could only happen if the violative condition is abated, or the employer has submitted a qualified statement with supporting evidence.

## 6. New workers' comp audit threshold

Starting Jan. 1, 2015, all workers' comp policies with more than \$13,000 in annual premium will be subject to yearly payroll audits.

The change – from \$10,000 in annual premium – means that fewer employers are likely to be audited next year.

## 7. OSHA's new reporting guidelines

Starting Jan. 1, 2015, employers are required to notify Federal OSHA of work-related fatalities within eight hours, and work-related in-patient hospitalizations, amputations or loss of an eye within 24 hours.

Prior OSHA rules required employers to report only work-related fatalities and in-patient hospitalizations of three or more employees. Reporting single hospitalizations, amputations or loss of an eye was not required.

All employers will be required to comply with OSHA's new severe-injury and -illness reporting requirements.

California employers will not be affected unless they have workers outside the state. But for California employees, Cal/OSHA's more stringent reporting rules still apply.



# Pacific Diversified Insurance Services

## 2015

wishes you a Happy New Year

## 8. Protections for unpaid interns

This law adds unpaid interns and volunteers to the list of individuals who are protected from harassment under California's Fair Employment and Housing Act. It also extends to them protections from discrimination. Also, the law extends religious belief protections and religious accommodation requirements to anyone in an apprenticeship training program, an unpaid internship or similar program.

## 9. Privacy laws expanded

A new law requires firms that maintain, own or license personally identifiable information about a California resident to offer identity theft prevention and mitigation services if that data is breached.

Those services must be offered for a minimum of 12 months at no cost to all persons affected. This adds to existing state law that requires businesses or individuals to notify any person whose data they were holding was breached.

## 10. No more telegraphing serious incidents

Hopefully this doesn't put your firm in a bind, but employers will no longer be able to report serious workplace illnesses or injuries to Cal/OSHA by telegraph under a new law.

Starting Jan. 1, you can only report by phone or e-mail. If you haven't yet updated your systems, ditch the telegraph and get a phone or e-mail today! ❖





## WORKERS' COMPENSATION

# Better X-Mod Calculation Regimen Being Planned

**L**AST YEAR, the Workers' Compensation Insurance Rating Bureau of California instituted new rules that limited to 25 percentage points the amount an X-Mod can change due to a single claim.

Now it's considering additional regulations to further improve the way X-Mods are calculated. The goal is to ensure that X-Mods better reflect the true claims history and costs of employers, and to eliminate the X-Mod spike for smaller employers who experience just one claim.

The issue of one claim sending an X-Mod spiraling has been a thorn in the side of many smaller employers. Sometimes the insurer may increase reserves for a claim because it expects costs to mount quickly.

When those reserves are placed on a claim, it will be reflected in your loss reports when it comes to calculating your X-Mod.

Currently, the Rating Bureau uses a single split point for dividing primary and excess losses. The new system it's mulling would use 90 or more different thresholds based on the size of any given employer.

The goal of this possible change is to make California's current X-Mod system a better predictor of an employer's likelihood to suffer a compensable workplace injury.

As currently drafted, the multiple split point formula would essentially use just an employer's actual primary losses, plus their expected excess losses divided by their expected losses, to determine their X-Mod.

Primary losses are the costs that the insurer would expect to pay for a given workplace injury, and excess losses are those that go above and beyond those initial primary losses. Excess losses are driven by the severity of the injury and the worker's ability to recover from the injury and return to work.

This process is in its early stages and the proposed effective date is not until 2017, according to press reports.

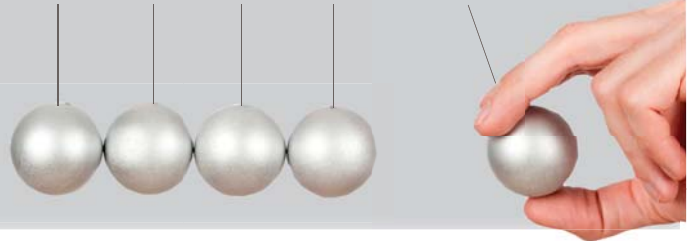
Currently, the experience rating plan uses a single split point set at \$7,000 for all employers, which critics say unfairly affects smaller risks and is not as responsive for larger employers.

## Swings Are Limited to 25 Points Starting This Year

**THE RULES** that were implemented last year apply to all X-Mods on new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2015. Employers do not have to be claim free on January 1, 2015 to be eligible.

The 25-point limitation does not apply if an employer incurs more than one claim during the experience period, or if the employer's X-Mod is computed excluding unaudited payroll.

The experience rating form will include an "L" next to the X-Mod to identify it as a "limited" experience modification. For reference, the form will also contain the experience modification that would have been effective if the limitation had not been applied, as well as what the X-Mod would be if no claims were filed.



Any claims incurred up to the split point value are included in an employer's X-Mod calculation at full value, while the rating formula only considers a portion of the claims dollars over that amount.

The Rating Bureau has resisted raising the split point (last year it entertained a recommendation that it be raised to \$9,000) because of the negative impact it would have on smaller employers, and has been exploring alternatives to the single split point system. ❖

