How to Properly Structure Your Brewery Insurance Program

How insurance policies protect your brewery and respond to claims.

John Hoefer
Founder, Brewery Insurance Program
The Standard Policies

- Liability
- Property
- Commercial Auto Insurance
- Workers’ Compensation (Employers Liability)
- Employment Practice
Liability Insurance

- Protects you from lawsuits or claims arising from your negligent actions that cause…

  Bodily Injury & Property Damage to others
  Includes damages and legal fees
## Liability Insurance

<table>
<thead>
<tr>
<th>Description</th>
<th>Limit</th>
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<tbody>
<tr>
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<tr>
<td>Products Aggregate Limit</td>
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Liability: Aggregate Limits

**GENERAL LIABILITY**

$ 2,000,000  General Aggregate Limit
$ 2,000,000  Products Aggregate Limit

- Aggregate: The total dollar amount the policy will pay for damages during the policy year.
- Separates the claims into two types: General and Products
Liability: Occurrence Limits

1,000,000  Personal and Advertising Injury
1,000,000  Each Occurrence Limit

The highest amount the policy will pay for damages PER claim.
General Liability Coverages & Claims Examples

- **General Liability – Premises (tasting room), off-premises (brew fest)**
  - Slip and Fall in tasting room.
  - Tripping over a keg at a beer fest.
  - Fire in brewery damages surrounding units or buildings.

- **Personal & Advertising Injury**
  - Copyright/trademark infringement on other brewery’s existing product.
  - Libel or slander – Denigrating competitors or other companies/people.
Products Liability & Claims Examples

- Products Liability: Anything you sell – Beer, merchandise etc.
  - Defectively manufactured products:
    - Beer makes someone sick
    - Glass in bottles
  - Defectively designed products:
    - Use of a poisonous ingredient in recipe
    - Failure to provide adequate warning or instructions
      - Peanuts in beer, no allergy warning label
Other Standard Liability Coverages

- Fire Damage (Tenants Liability) – Cost to rebuild your leased space
  - Real estate lease. “Waiver of Subrogation or Hold Harmless”
- Medical Expenses – No fault, “don’t sue me” coverage

1,000,000 Fire Damage Limit
10,000 Medical Expense Limit
Liquor Liability – By Endorsement

LIQUOR LIABILITY

$ 2,000,000  Liquor Law Liability Aggregate
1,000,000  Liquor Law Liability Each Occurrence

- Has it’s own aggregate and occurrence limit
- Primary concern: Over serving patrons in tasting room
- Secondary concern: Patrons overserved your beer at bar/restaurant/etc.
Additional Liability Coverages – By Endorsement

- Employee Benefits Liability: protects against administration errors in employee benefit program.
  - Claim example: New employee wasn’t offered health insurance after 60 days. Gets into a personal auto accident and has no health insurance coverage.

- Hired and Non-Owned Auto: Protects company from auto accident claims for vehicles of owners, employees and autos/trucks rented in company name.

- Umbrella/Excess Liability: Adds additional layers of $1M to occurrence and aggregate limits.

- Cyber Liability: Privacy Liability, Employee Privacy Liability, Libel/Slander online.
## Liability Insurance

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Liability Premium Basis

- Based on revenue. – Rate per $1,000 of sales.
- Based on square footage of brewery. (premises liability)
- Percentage sold on-premise vs. off-premise consumption (general liability & liquor liability)
- % Sold in kegs, cans, bottles (product liability)

Sales estimated at the beginning of the year, audited at the end.
  - Check sales estimates mid year, update your broker/insurance carrier.
Property Coverage Basics

- Property policy covers fire, theft, explosion, vandalism etc.
  - Exclusions include: earthquake, flood, war, acts of God, nuclear accidents, neglect of property. (In some areas of the country, wind damage is excluded.)

- Policy Limitations: Sub-limits on certain types of losses
  - Property-in-transit, leakage, contamination, product recall, utility services (direct damage and business income), etc. Read the insurance quote carefully.

- Replacement Cost vs. Actual Cash Value, Selling Price

- Co-Insurance – must insure to at least 80% of value
Standard Property Coverages

- Building - Physical structure, if owned.
- Tenant improvements & betterments:
  - Permanently attached equipment
- Business Personal Property – Anything not secured to the floor (desks, forklifts, kegs)
- All above property should be insured at replacement cost.
Standard Property Coverages

- Beer Products – Raw materials, in process, finished goods – Replacement Cost/Selling Price

- Property-In-Transit: Property being transported by you, a carrier you hire or your distributor*. (*Keg leasing companies have required limits) – Replacement Cost of Kegs, Selling cost of beer
Equipment Breakdown & Business Income

- **Equipment Breakdown** – Physical and financial damage coverage. Will fix or repair most equipment (non-wear and tear) and make you whole for loss of production time or capacity.

- **Business Income**: Must be triggered by a covered loss
  - Net income coverage, not revenue. Will pay ongoing “necessary” expenses and net profit.
  - Limits: Actual Loss Sustained (limited by time) or a set dollar limit.
  - Extra Expense – increases in costs due to loss.
  - Payroll – Endorse key management & ordinary payroll.
Brewery Specific Property Coverage

- Coverage for these risks are by endorsement.
- Off-site utilities: direct damage and business income loss
- Leakage: Beer spilling/draining from tanks or other containers
- Contamination – cleaning fluids, stray bacteria, yeast etc.
- Selling price endorsement – Always protect your profit. Have the endorsement start as early in the manufacturing process as possible.
Saving on Property Premiums

- Based on a rate per $100 of property covered.
- Building rates are 50% lower than Business Personal Property or Beer Products Rates.
  - Make sure to have as much permanently attached equipment classified as “building” as possible.
- Breweries are growing fast, adding new equipment all the time. Be sure to update your policy quarterly.
Commercial Auto Coverage

- Combined Single Limit – not split limits like in personal auto coverage
  - $1,000,000 coverage standard. Possible to get less, but savings are not great.
- Uninsured/Underinsured Coverage
  - Medical expenses: $1k to $10k
- Does not cover property-in-transit
- If employees are injured in an accident – it’s a workers’ compensation claim
- Hired and non-owned auto (if no auto policy, put on General Liability policy)

Best Practices for lower premiums - Checking MVRs (drivers with clean records only)
Workers’ Compensation

- Employers Liability – Obligation to take care of a worker due to injury.
- The policy itself is actually very simple, it garners a great deal of attention due to its cost, intricate claims process, and employee abuse.
- $1M, per disease, $1M bodily injury, $1M bodily injury from accident – Excess liability will cover work comp as well, by endorsement.
- Premium based on a rate per $100 of payroll.
- Savings in premium comes from a favorable loss history, experience modification when premium is large enough, and showcasing your safety practices to the underwriters.
Employment Practice Liability

- You have a responsibility to provide a safe (mentally and physically) workplace.
- Possible claims: wrongful termination, hostile work environment, discrimination (age, gender, race etc.) harassment (sexual or otherwise), wage and hour issues.
  - 1st Party, 3rd Party, Wage & Hour sublimit.
- Employers often don’t purchase this coverage because they feel it is expensive, and it won’t happen to them.
- 80% of all cases are won by the employee, average cost of claim over $100k.
Questions?