

WHAT IS LIABILITY INSURANCE FOR HUNTING CLUBS?

By Ed Wilson, Ph.D.

While formalized hunting clubs and leases have been common throughout the southern United States for decades, this trend is slowly moving into less traditional regions such as the Midwest and Northeast. This trend, coupled with the fact that our society is becoming more litigious (sue happy), means that both landowners and hunters across the nation are being forced to seriously consider their legal liability while hunting.

These concerns are valid as both landowners and hunters assume some degree of legal risk. Common law principles provide the legal parameters regarding the rights and duties of landowners. Under common law, landowners have a duty to guests, those paying to hunt (leaseholders or clients) and, to a lesser degree, trespassers. Landowners have the duty to inspect their property, remove hidden dangers, keep the property in a reasonably safe condition, and take precautions to protect users from foreseeable danger.

Many states have recreational use statutes that attempt to limit the landowner's liability exposure. However, most do not limit landowner liability exposure for:

- 1.) An intentional, willful, or malicious act or failure to guard against a dangerous condition, structure, or activity or
- 2.) Protect the landowner who charges a fee for recreational use of land. The amount of an "allowable" fee varies by state.

Legal representatives recommend the following to reduce landowner liability:

- Understand any legal responsibilities to recreational users and meet those responsibilities.
- Use loss prevention to identify and eliminate known hazards.
- Practice risk management by purchasing liability insurance. This way you transfer your exposure to litigation and loss to an insurance company.

Over the past 10 years, liability insurance has become a standard hunting lease requirement. In many cases, private and corporate landowners actually require liability insurance before the hunting lease is finalized.

Although frequently required, this insurance is often misunderstood. Simply stated, liability insurance is designed to provide coverage for hunting clubs and their members for acts which they could be **held legally responsible**. Most of the insurance industry relies on a standard liability policy to provide landowners with hunting lease liability.

What is a General Liability Policy?

In most cases, a general liability (GL) policy is constructed based on a standard ISO (Insurance Services Office) form. This form provides the foundation for very broad liability protection for landowners and hunting clubs. Although it is considered a standard form the wording can be misleading. Unlike a normal property insurance policy that describes what is covered; the general liability policy explains what is not covered. Such policy construction leads to confusion and misunderstanding about the numerous coverage's available under this GL form.

The GL insuring policy agrees to pay for ***“those sums that the insured becomes legally obligated to pay as damages because of bodily injury or property damage to which the insurance applies. We will have the right and duty to defend the insured against any suit seeking those damages...”***

This is a very broad statement that could potentially provide liability protection to an insured for anything the entity is legally responsible for. Without exclusions this insuring agreement would be considered so broad that it would be either too expensive or unavailable in the market place. Thus, even though the GL form is very comprehensive it is shaped by what exclusions are present on the policy.

The standard GL exclusions are generally listed as:

“This insurance does not apply to”:

- Expected or Intended liability
- Contractual Liability Exclusion
- Liquor Liability- if you are in the business
- Workers Compensation
- Employers Liability
- Pollution
- Aircraft, Auto and some types of Watercraft
- Mobile Equipment- transportation or organized racing
- War
- Damage to your Property
- Damage to your Product
- Damage to your Work
- Damage to Impaired Property
- Recall of Product
- Libel/Slander

This basic policy is then shaped for particular risks by adding exclusions or endorsements that alter the wording of the standard form. For landowners and hunting clubs, it is very important that wording be included for hunting activities and operations and no additional exclusions are added that limit the normal hunting club/timberland owner's activities.

Elements of general liability insurance forms for landowners/hunting clubs should include:

1. Member-to-member liability coverage for cross-member liability claims.
2. Guest liability coverage to provide coverage to the club for acts of their guests.
3. Landowners as additional insured have to provide landowners with coverage for acts of the hunting club.
4. No exclusionary endorsements should be present for activities specific to timberland or hunting operations such as tree stands, ATVs, firearms, logging and lumbering, and/or fire.

Hunting club insurance is designed to lessen the risk associated with occurrences caused by a negligent act of the hunting club (or members and guests) and landowners. Clearly, all hunters and landowners should be aware of the risks they take by not having adequate liability insurance. It's simply not worth risking all of your personal assets or your family's security due to unfortunate accidents or acts of your hunting club members/guests.

About the Author:

Ed Wilson co-founded **Outdoor Underwriters** in 2008 and, as Vice President, he manages the operations for all aspects of their forestry-related insurance products. Outdoor's product lines include hunting lease liability, timberland liability, standing timber insurance, consulting foresters, prescribed burning and other related forestry products. This venture is backed by Ed's 20 years of experience with placing business into the **Lloyd's** insurance market and his management of underwriting contracts for forestry-related products.

Ed is a certified forester and a member of the Society of American Foresters. Ed has earned the following degrees: a B.S. in **Forest Management** from West Virginia University; a M.S in **Forestry Economics** from West Virginia University; and a Ph.D. in **Industrial Forestry Operations** from Virginia Tech.