

NEW ENGLAND

U P D A T E

Comp Reform in New England

New comp laws have been sweeping the nation. Where do the New England states stand?

by Ted Cushman

Some years ago, the National Association of Home Builders (NAHB) embarked on a nationwide campaign to reform the workers compensation system. Most New England states have joined the nationwide trend and adopted some sort of comp reform. But results have been mixed, and comp expenses for contractors still vary widely between states in the region.

Maine. Maine's biggest industries, logging and construction, are dangerous ones for workers. Rising comp costs reached a crisis point in the late 1980s, and many insurers left the state, says Maine HBA Executive Officer Kendall Buck. A reform package in the early 1990s focused on safety improvements and education. The law also targeted claims fraud and excessive administrative costs. Insurers and employers, meanwhile, have emphasized return-to-work programs. As a result, comp rates in Maine have stabilized and insurers have been returning to the state.

Vermont. Vermont builders were disappointed with a "watered-down" version of



C. BATES

Carpenters are expensive to insure. But after decades of explosive growth, comp costs are finally heading down.

comp reform they said didn't do enough to limit claims. Nevertheless, NAHB statistics show Vermont as having the lowest rates in the region (see chart, page NE 4). Only nine states nationwide have lower comp rates than Vermont.

New Hampshire. A reform package that took effect in 1994 reduced benefits and cracked down on fraud. A requirement for safety committees and written safety plans is backed up with \$1,000 fines.

Flexible pricing schemes are now allowed — insurance agencies can offer preferred rates to good customers, with additional discounts based on experience. "A small home builder with a good track

record and a good safety plan can save himself a lot of money," says Paul Sullivan of Infantine Insurance in Manchester, N.H.

Overall, comp rates in New Hampshire dropped 8% last year, but basic rates for carpentry and masonry went up.

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Comp Reform, *continued from page NE 1*
Insuring a residential carpenter in New Hampshire currently costs from \$16 to \$20 per \$100 of payroll.

Massachusetts. Reform legislation adopted in 1991 cut benefits and shortened the duration of claims. But more significant were provisions that allowed insurance companies to stop payments to workers who had recovered from injuries, according to insurance agent and Massachusetts HBA vice-president Mark Scolnick of Scolnick Insurance in Westford, Mass. Limiting attorney involvement in claims also had a major effect, says Scolnick.

The state lowered comp rates 16% last year and is considering another 10% cut.

Connecticut. A 1995 law closed off new claims against the state's "second-injury" fund, which had been used to compensate injured workers whose employers were not insured, and stiffened the penalties for uninsured employers.

Builders are struggling with implementation of another 1995 reform, the requirement that general contractors show proof of insurance before receiving a building permit. The Connecticut HBA approves of the idea in principle, says executive officer Bill Ethier, but he says building officials aren't clear on what constitutes proof (the law doesn't specify).

Connecticut has yet to see big improvements in rates. The state has the third most expensive insurance in the region.

Rhode Island. Most private insurers fled Rhode Island in the early 1990s. To fill the void, the state created its own insurance fund, Beacon Mutual Insurance. An accompanying reform package included medical cost controls, tough fraud enforcement, and expedited court proceed-

ings. Overall comp rates will drop by more than 6% this year.

Beacon Mutual, which now writes about 80% of the comp insurance in the state, actively pursues safety training and education, and rewards safe employers. Under the company's "loss-free credit" program, even

NAHB statistics show that contractors building a modest home in the most expensive state in the region (New York) spend \$1,600 more per house on comp premiums than builders in the least costly state (Vermont).

The rate differences have prompted border-area builders

Comp Costs Compared

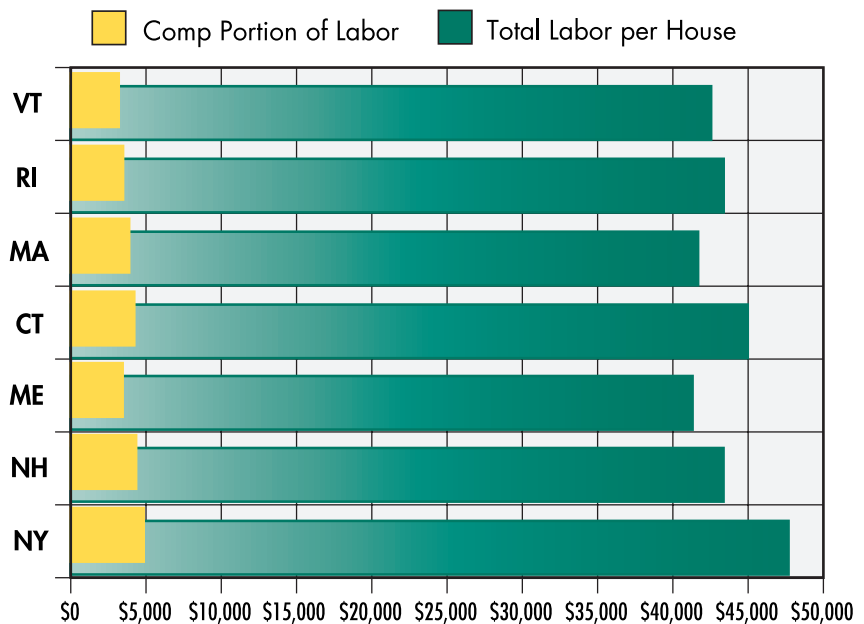


Chart compares labor costs and comp costs for building a "typical" 2,000-sq.-ft. house in the different New England states. New York, with the highest labor costs, also has the highest comp rates and the highest total comp bill (almost \$1,700 more than the lowest state, Vermont). These figures are averages. Flexibly priced insurance plans in many states let contractors with effective safety programs pay below-average rates.

Source: NAHB

small employers can earn discounts of 5% to 15% if they can maintain a zero-injury record.

New York. A continuing debate over comp in New York has produced little real reform. A pilot managed-care program to cut medical expenses for injured employees so far involves only a few workers. New York builders carry the tenth highest comp cost in the nation, and the highest in the Northeast.

Is the grass greener?

Differences in comp costs affect the prices contractors can afford to charge customers.

who operate in more than one state to wonder whether they could cut costs by buying their insurance in the cheapest state. "That is a question your agent should handle," says Eric Anderson, who follows comp issues for the NAHB in Washington, D.C. "The answer depends on state law. By and large, it will come down to where the employee is hired from, paid from, and supervised from." But don't mislead your insurance company: "An employer should be forthcoming with the insurance company so there will be no surprises," advises Anderson. ■

Safety Tip: Protect Your Rear

Guard against UFTs (Unsecured Flying Tools)

by Chuck Green

I remember being a new carpenter's helper when 39-year-old John Thompson had an accident that made medical history. On May 1, 1981, Thompson survived having "a 7-foot crowbar driven directly through his head during an automobile crash," the Boston *Globe* reported.

Thompson was driving a station wagon with a 40-pound crowbar loose in the back when the car slammed into a tree. The crowbar shot forward like a javelin, piercing Thompson's head behind his left ear. It went through the skull, protruding through the forehead above his left eye. By the time it stopped, said the *Globe*, "about 3 feet of the bar extruded through the front of his head and nearly 4 feet more was sticking out in back." The steel spear missed

killing Thompson by a fraction of an inch, a surgeon reported. (The man survived only because of the heroic efforts of a paramedic rescue crew who arrived at the scene almost instantly, according to the *Globe* report. Emergency room staff also received credit for an extraordinary job.)

Two weeks after the accident, Thompson was reported to be able to see and walk, and was regaining his speech slowly, though his right arm was paralyzed. The last story I've located on Thompson was dated July 28 of that year, when he was released from the hospital.

What I remember reading following the accident was the warning I've since passed on to any tradespeople I meet. In the sudden deceleration of an accident, anything in the back of a vehicle retains its forward momentum and is likely to take flight. You don't even need to hit something to encounter this deadly hazard — slam on the brakes and everything in back will try to join you in the front seat.

What this means in practical terms is that all vehicles should be packed as though there is going to be an accident. When loading tools into the back of a van, for example, I pack them tightly together, so the front-most ones are up against fixed parts of the van, and each one farther back is packed tightly against the one in front of it (see photo, below left).

I also built a cabinet behind the driver's seat to protect me from objects flying forward from the back. The cabinet has 3/4-inch plywood sides, and is well-secured to the van body and floor. Behind the passenger, I have installed a double-thickness plywood shield.

Although I think my shield is strong, a better alternative may be a commercially made steel mesh safety barrier, available from Adrian Steel (800/677-2726) in many sizes and options for vans and trucks (see photo, below right). ■

NARI-certified Super-remodeler Chuck Green owns and runs Four Corners Construction in Ashland, Massachusetts.



CHUCK GREEN

To protect against flying tools in the event of a collision, the author packs items away tightly. He has built plywood barriers to shield his van's driver and passenger (left). Steel screens manufactured by Adrian Steel (right), which provide a strong measure of protection, are a worthwhile safety investment.

Restoration Notes: Rebuilding Window Muntins

by Dave Richard

In recent years, I've gotten a rare opportunity to work on a building that is still standing much as it stood 200 years ago: the Boyd house in Quechee, Vt. The State of Vermont plans to turn the house into a museum. So the company I work for, Recreate, is not modernizing the house; instead, we are helping to restore it to its original condition.

Stabilizing and preserving the home's original windows presented a challenging problem. The antique 12-over-12 sash had the original painted surface on the inside, but the exterior surface had eroded over two centuries to the point where it was flush with the glass. The individual hand-blown panes were now held in place with a sprinkling of carpet tacks driven in at odd angles. Our job was to rebuild the exterior surface of the windows without altering the interior surface in any way.

First, we needed a flat surface to work with. After taking out the sashes and removing the panes, we made a jig — a little frame to set each piece of sash in — that would allow us to run a router over the exterior of the window and shave off the surface.

Onto this fresh flat surface we glued strips of pine, $3/16$ to $1/4$ inch in thickness, using West System Epoxy from Gougeon Brothers (P.O. Box 908, Bay City, MI 48707; 517/684-7286).

The epoxy is thicker than water, but thin enough to wick into dry wood and starve the joint for glue. So we precoated the surface with epoxy; then just before gluing on a piece, we added a silica filler (also from Gougeon Brothers) to some epoxy and applied the thickened mix. The



The Boyd house in Quechee, Vt., built in 1785, will someday be a state historical museum (left). Below, a worker applies epoxy to one of the building's original windows.



thickener keeps the epoxy from soaking in before it sets up.

Clamping these joints would have been hard, but epoxy doesn't need pressure to achieve a good bond. We held the new strips in place with brads, which we left standing proud. After 24 hours of curing, we removed the brads and trued up the pine to the correct final dimensions. When we reglazed, we replaced missing panes with antique hand-blown glass bought from salvage dealers.

Private customers, even if they wanted period window details, probably wouldn't want to pay for the two days of labor per sash that this job required (including removing and replacing the sash, and installing temporary window covers while the work was done). A better and cheaper solution

would be to buy reproduction custom sash made with fresh pine, and put in antique glass.

But in this case, the original windows were valued in themselves as a historic artifact. With current funding limitations, it's not certain when the fully restored house will be open for public viewing. For now, though, the restored windows are at least keeping the weather out. When the house is done, it can stand for another 200 years as a living history lesson for future generations. ■

Woodworker Dave Richard, of Corinth, Vt., works for Recreate, a Lyme, N.H., building firm specializing in period restorations and historic reproductions. Photos courtesy of John Dumville, Vermont Division for Historic Preservation.

Rain-Screen Siding

by Ted Cushman

Many builders apply foam insulation boards to house exteriors, beneath the siding. The layer of uninterrupted insulation reduces the "thermal bypass" effect of the framing.

But there is a drawback: Wood siding applied over foam sheathing sometimes cups and curls, suffers from peeling paint, or even decays. The culprit is moisture.

Rainy day blues. Water penetrates wood siding in many ways. Dew collecting on unpainted siding during the night can be driven into the wood by the morning sun. Even painted clapboards often have tiny cracks between the courses, and moisture collecting on the surface can be drawn into the crevices by capillary action. Wind pressure aids the process. And wind-blown rain often gets behind the siding through flashing imperfections.

In houses with ordinary sheathing, small amounts of moisture behind clapboards evaporate and are absorbed by the building's sheathing, framing, and insulation, or are taken up by air within the framing cavities. The moisture is released later when the air is warm and dry, and as long as the wood does not reach a moisture content higher than around 18%, no harm is done.

But foam sheathing traps moisture just below the siding. Uneven drying can cause the siding to warp, and if the wood stays too damp it can rot.

Solution: Let it breathe.

Wood scientists in the United States and Canada say the problem can be beaten by introducing an air space behind the siding. Allowing the back face of the siding to breathe lets it dry evenly without cupping, and keeps it dry enough to prevent decay. It also equalizes the pressure behind the



Carpenters nail furring strips over the housewrap to create an air space behind clapboards.



A strip of folded screening in the lower opening keeps wasps and bees from nesting behind the siding.



Builder Lud Leskovar uses pre-primed siding and takes care to prime each cut end. The pre-primed siding has a good appearance as soon as it's installed, he notes.

siding with the wind pressure on the outside, reducing wind-driven moisture penetration. The technique is known as "rain-screen siding."

Case Study

Builder Lud Leskovar, of Canaan, N.H., recently installed a rain-screen siding job over walls insulated with spray foam.

To create a breathing space behind the clapboards, Leskovar nailed 1-inch-wide furring strips of 1/4-inch lath to the wall, following the layout pattern of the studs beneath (top photo, previous page).

Leskovar used 5/4-inch pine for window and door trim. The combined thickness of the furring strips and the clapboards was only around an inch, allowing the clapboards to butt naturally against the painted pine. Using 3/8-inch furring strips, or even 1x3 strapping, would have provided a fatter air space, notes Leskovar. But he says this would have made the wall too fat, requiring costly extension jambs or a more complicated trim detail for the windows and doors.

Scientists are still unsure how fat an air space is called for in this kind of wall system. At a guess, 1/4 inch is probably the minimum contractors should use.

At the bottom of the wall, barriers of folded screen allow air into the space while keeping out insects. At the top, the air space connects with the soffit venting system.

For a thorough siding job, Leskovar uses clapboards that have been preprimed front and back with Cabot primer. As he works, he hand-primers each cut end.

Prepriming the siding protects it over time, observes Leskovar, but it also gives an immediate impression of quality. "As soon as it goes up, it looks nice," he says. ■

News Brief: New York Court Nullifies Pay- When-Paid Contracts

New York contractors who wait until they receive payment from the customer before they pay their subs will have to change their ways. Ruling in the case of *West-Fair v. Aetna*, the New York State Court of Appeals (the state's highest court) stated: "A pay-when-paid provision which forces the subcontractor to assume the risk that the owner will fail to pay the general contractor is void and unenforceable."

The *West-Fair* case involved a lawsuit brought by an electrical

When owners withhold pay- ment, GCs must still pay subs

contractor against the payment bond surety of a contractor whose customer had gone bankrupt. Since the customer would never pay the GC, the pay-if-paid clause would have meant that the sub would never get paid. But the Appeals Court ruled that this was a violation of state law, saying that neither the GC nor its surety bond could use

the pay-if-paid clause as an



Making its own quiet statement, this window through a chimney lets the homeowner see the world in a different way.

excuse for not paying the electrical sub.

The court's decision means that general contractors must pay subs within a reasonable time of receiving a bill, regardless of whether the language of their contract allows the GC to wait until it receives payment. ■

And Now for Something Completely Different

The New England building tradition includes some elements that

are not at all traditional. Over

the years, the region has been home to more than a few builders who weren't afraid to take a chance.

The upstate New York reader who sent us this photo of a chimney with a window through it (or is it a window with a chimney around it?) doesn't know the story behind this unique architectural improvisation. But maybe that's better — this way, we can each make up our own. ■