



# THE AMERICAN LEGION

*For God and Country*

## MEMO

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**DATE:** February 4, 2021  
**TO:** All Posts  
**FROM:** Michael McDaniel, Department Adjutant  
**SUBJECT:** Resolution No. 35 – Insurance Requirements

On October 14-15, 2020, the National Executive Committee adopted Resolution No. 35, titled “Insurance Requirements”.

Resolution No. 35 specifies additional insurance requirements for EVERY POST of The American Legion. It is anticipated that the additional requirements regarding Department will also take effect in the near future and it is recommended that each post consider this when contacting your insurance agents.

Attached you will find a copy of Resolution 35 - Insurance Requirements, a memo published by the National Judge Advocate, a copy of the December Florida Legion Link Article submitted by the Department Judge Advocate, and a **Certificate of Liability Insurance Example**. These documents will provide additional information related to the resolution and answer most of your questions.

Please direct any questions regarding the insurance requirements to Department Judge Advocate Clarence Hill at [Judgeadvocate@legionmail.org](mailto:Judgeadvocate@legionmail.org).

**NATIONAL EXECUTIVE COMMITTEE  
OF  
THE AMERICAN LEGION  
October 14-15, 2020  
Virtual**

**Resolution No. 35: Insurance Requirements**

**Origin: Finance Commission**

**Submitted by: Finance Commission**

WHEREAS, The American Legion's charter is codified in 36 USC 21701 et seq and under this statutory code, The American Legion may: (a) establish and maintain offices to conduct its activities, (b) sue and be sued, (c) establish state, territorial and post organizations, and (d) have the exclusive right to use, manufacture and control the adopted organization emblems; and

WHEREAS, The American Legion, its state, territorial and post organizations have the exclusive rights to use the name "The American Legion" or "American Legion" (collectively "Name"); and

WHEREAS, The names, emblems, trademarks and copyrights of The American Legion comprise The American Legion intellectual property (collectively "Tradenames"); and

WHEREAS, The American Legion's Tradenames consists of assets requiring legal and financial protections through insurance coverage, and

WHEREAS, It is recommended that The American Legion's state, territorial and post organizations have their own protective insurance coverage; now, therefore, be it

**RESOLVED, By The National Executive Committee of The American Legion in regular meeting assembled virtually on October 14-15, 2020, That because The American Legion owns, controls, protects and defends The American Legion's Tradenames, this resolution is necessary to dictate protective standards over the Tradenames; and, be it further**

**RESOLVED, That The American Legion, via insurance policies, protect itself, and its Tradenames, from liability and subsequently strongly urges all American Legion departments, department-chartered intermediate bodies and posts do the same; and, be it further**

**RESOLVED, That due to the need to protect The American Legion's Tradenames from liability it shall be required forthwith that when any American Legion department, department-chartered intermediate body, post or organization use The American Legion's Name or Tradenames and an insurance policy is obtained, the group utilizing this insurance policy shall specifically in the insurance policy hold The American Legion harmless and named as an additional insured on any, and all, insurance policies; and, be it further**

**RESOLVED, That The American Legion's national adjutant, or designee, has complete authority to independently investigate, confirm and report that any, and all, insurance policy(ies) purchased by an American Legion department, department-chartered intermediate body, post or organization shall specify that The American Legion is held harmless and named as an additional insured on any, and all, insurance policies; and, be it finally**

**RESOLVED, That The American Legion's National Executive Committee strongly urges that all American Legion departments follow similar courses of protective action, to wit: (1) require all of the department's own intermediate chartered bodies and posts that obtain insurance policies hold their respective American Legion departments harmless and also named as an additional insured on any, and all, insurance policy(ies) and (2) that the department adjutant, or said designee, have the complete authority to independently investigate, confirm and report that any insurance policy(ies) purchased by the department's intermediate body or post shall hold its respective department also harmless and named as an additional insured on any, and all, insurance policies.**

*Note: The following memo was written by American Legion National Judge Advocate Kevin Bartlett.*

## **How American Legion Departments and Posts comply with Resolution 35**

The American Legion national organization is the owner, protector and the organization that may grant the use of the names, emblems, trademarks and copyrights (Tradenames) of The American Legion. As owner and protector of the Tradenames, The American Legion utilizes a number of different protective insurance coverages. As owner, protector and grantor of the Tradenames, The American Legion, like all owners of trademarks or copyrights, is allowed to place restrictions upon the use of its Tradenames, including similar insurance requirements, reviewing Tradename usage prior to use, etc.

Resolution No. 35, Insurance Requirements, places restrictions on the use of the Tradenames – namely that, if any organization would like to use the Tradenames of The American Legion and the Tradename-using organization has a situation whereby there is a need for liability insurance protection, then the Tradename-using organization will specify that The American Legion (and, if needed, the respective department of The American Legion) is held harmless and named as an additional insured on any and all insurance liability policies.

In other words, any organization using the Tradenames of The American Legion, and needing liability insurance coverage, is required to specify that The American Legion (and, if needed, the respective department of The American Legion) is held harmless and named as an additional insured on any and all insurance liability policies. This Tradename protection is a standard business practice and not viewed as a control of the insurance-purchasing organization.

This requirement brings up two Q&As for clarification.

### **Q: What is liability insurance?**

**A:** Liability insurance is an insurance product that provides an insured party with protection against claims resulting from injuries and damage to other people or property. Liability insurance policies protect both the insured and third parties who may be injured as a result of the policyholder's unintentional negligence and therefore the liability insurance covers legal costs and payouts for which an insured party is responsible, if the insured party is found legally liable. Liability insurance policies pay these damaged parties and not the policyholders.

The different types of liability insurance include directors and officers insurance (D&O); commercial liability; general liability insurance; dram shop liability; special events insurance; employment practices liability (EPL); and criminal acts insurance.

### **Q: What is an additional insured?**

**A:** An additional insured is a type of insurance status associated with liability insurance policies that provides coverage to another group that is not initially named in the liability policy. With an additional insured endorsement, the additional insured is then protected under the named insurer's liability policy.

Therefore the Tradename-using group may obtain this additional insured endorsement coverage for The American Legion, and the respective department of The American Legion as needed, by simply calling their insurance agent and requesting the addition of The American Legion, and the respective department of The American Legion as needed, to their liability insurance coverage(s) as an additional insured endorsement. The majority of insurance agencies do not charge for this endorsement; therefore, if presented with an additional charge one should inquire why such additional fee.

Enforcement of this Tradename business requirement is also covered in Resolution No. 35. The American Legion's national adjutant, or designee, has been given authority to independently investigate, confirm and determine that organizations using the Tradenames are also naming The American Legion, and respected department of The American Legion as needed, as additional insured on their respective liability insurance policies. Once a national adjutant's designee is determined and authorized, this designee's information will be made public.

**Note: The following December Legion Link Article was written by Department Judge Advocate Clarence Hill.**

## **NEW INSURANCE REQUIREMENTS, RESOLUTION 35**

**ADOPTED BY THE NATIONAL EXECUTIVE COMMITTEE AT A VIRTUAL MEETING HELD OCTOBER 14 -15 AND WHAT IT MEANS TO EVERY POST WITHIN THE DEPARTMENT OF FLORIDA**

*The National Executive Committee (NEC), without consultation with any of the Posts in the organization which has become the procedural norm, has approved the following resolution which will affect every Post in The American Legion. Below are the resolved clauses of Resolution 35*

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## What does this mean to a Post?

Let's define some terms, what is Hold Harmless? A legal **definition of hold harmless**: is an agreement between parties in which one assumes the potential liability for injury (Post) that may arise from a situation and thus relieves the other of liability (The American Legion and AL Department of Florida). Say someone falls in your parking lot, breaks a shoulder, or is overserved in your Post and leaves, getting in a serious accident. Lawsuits follow. Under a hold harmless the Post is solely responsible for the lawsuits both Department and National are protected from liability under the hold harmless. This "hold harmless" for The American Legion and The American Legion Department of Florida must be added to every insurance policy a Post holds in its name (General Liability, Liquor Liability, Property, Directors and Officers and Fidelity Bonds).

The next new term applies more to liability **insurance**, but an **additional insured** would have their names (The American Legion and AL Department of Florida) listed on all your insurance policies. Should a lawsuit or any other claim occur the Post is held liable, and the additional insured is protected, and should the additional insured incur costs they would be reimbursed by the insurance company. Usually additional insured is commonly used in conjunction with an indemnity agreement (like Resolution 35) between the named **insured** (the Post) and the party requesting **additional insured** status (The American Legion and AL Department of Florida). Every insurance policy held in a Posts name, must specifically reflect The American Legion and The American Legion Department of Florida as named additional insured.

The additions required under Resolution 35 are being implemented because the tradename The American Legion and the Logo of The American Legion are assets of the organization and require legal and financial protections through insurance coverage at all levels of the organization.

Please re-read the 4<sup>th</sup> Resolved clause as this will be the mechanism to assure compliance by Posts and Departments. I expect the Department Adjutant will be charged with monitoring compliance by every Post within the Department. Exactly how, has yet to be determined.

