

Loss Prevention

Please route to:

- Owner
- General manager
- Sales manager
- Service manager
- Office manager

Employee use of company autos: Uncontrollable?

"I wasn't driving too fast, that car just pulled out in front of me."

Countless employers have heard this story from an employee in a *company-owned* vehicle that was just involved in an accident. If the accident occurred during work hours there are few questions and less reason for concern. It is after-hour and late-night accidents that cause the most anxiety for owners and management. "Who was driving my vehicle?" "Was alcohol involved?" "What time was it?"

Employee actions, management responsibility

It is unfortunate but true; poor decisions by an employee can result in legal problems for your company. If an employee kills or injures someone while driving your vehicle, you may be held legally and financially responsible for the accident. If negligent entrustment can be proved, you may be held liable for damages awarded through legal action. This can include punitive damages, which may or may not be insurable in your particular jurisdiction.

Proving negligence

Immediately following a vehicle accident the police department will generally do several things. The driver may be tested to determine his blood alcohol level. Next, they will check to verify the driver possessed a current, valid license and run a motor vehicle record (MVR)

to evaluate driving history. Blood alcohol levels close to, at or above the legal limit, multiple moving violations, suspended license, excessive numbers of motor vehicle accidents, a history of DUIs (driving under the influence) are all examples of circumstances that may provide grounds for negligent entrustment. The theory of "negligent entrustment" refers to giving or entrusting your vehicle to a person who is incompetent or cannot operate the vehicle safely. All of the aforementioned "problems" can be cited as evidence that the employee should *not* have been allowed to operate a company vehicle.

Uncontrollable, but not necessarily unmanageable

Salespersons, field service technicians, office workers, parts runners and managers are examples of employees that may be able to use company vehicles for personal business. Basically, this means the employee has unlimited and uncontrolled access to the vehicle. This fact makes it extremely difficult to control how, when and under what conditions the vehicle is operated. So what can you, as a business owner or manager, do to protect yourself and the company?

Consider your options

The best option is to eliminate the personal use of company vehicles as much as possible. Eliminating the use eliminates the exposure. This can be accomplished by reducing the size of your fleet available for employee use. You

can also offer employees a “car allowance” in lieu of a company auto, and require them to carry their own insurance.

If the vehicles cannot be eliminated, then take steps to better control the exposure. First of all, establish minimum driver requirements for operation of company-owned vehicles. These requirements may include:

- Minimum length of employment
- Current and valid driver's license
- Satisfactory accident record
- Acceptable motor vehicle record (MVR)
- Physically fit to operate vehicle
- Minimum of 25 years of age

Re-evaluate all drivers at least annually

Secondly, management must develop a “company vehicle policy” that establishes guidelines for operation and personal use of all company-owned vehicles. This document should be signed by the employees to acknowledge their understanding and agreement. The policy should address:

- Return of the vehicle immediately if employment is terminated for any reason.
- Use of the vehicle should be restricted to commuting between the employee's residence and the workplace or driving for business purposes on behalf of the company.
- The driver must abide by all local, state and federal laws regarding a motor vehicle, and is personally responsible for any traffic or parking tickets or fines.
- The driver will be required to sign a MVR Request Form to allow the company to order a MVR anytime during his employment.
- Consumption of alcohol or any controlled substance by the driver or any other passenger while operating the vehicle is strictly prohibited.
- Use of the vehicle is strictly limited to the assigned driver and no one else.

- The vehicle cannot be driven more than 75 miles from the place of business without the consent of the owner or general manager.
- Secure the vehicle at all times, keys removed and the vehicle locked when left unattended.
- The attachment of any type of trailer hitch, hook-up or any form of towing is prohibited.
- Any traffic accidents, tickets or damage to the vehicle must be reported immediately to the owner, general manager or supervisor. If the assigned driver is at-fault in an accident, he will be required to pay costs not covered by insurance including, but not limited to, the deductible.
- Use of seat belts by driver and passengers is mandatory.
- The driver is responsible for maintaining the vehicle in a clean and orderly condition, and for ensuring that scheduled maintenance services are performed at the proper time or mileage.

Basic management controls will help ensure that vehicles are used in the best interest of the company. It is important for company vehicles to continue to be viewed as an asset, and not a liability.

If you have any questions or comments, contact your Zurich account executive or the Loss Prevention Department at 800-821-7803.

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