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# Risk Management Bulletin

## Non-Owned Vehicles

Construction operations have so many worker safety (OSHA) and liability issues (construction defect, mold, silica, etc…) they often neglect addressing one of the greatest risks to the organization, vehicles and safe driving. In fact, motor vehicle accidents are the largest source of fatalities in the work place. This includes not only the owned trucks and other vehicles owned by the company, but also the use of personal vehicles on company business.

A serious auto accident involving an employee driving on company business is one of the few exposures that can result in a first party, property damage claim, second party workers compensation claim, and a third party liability claim. Each can result in significant financial loss depending on the nature of the accident. It is such a critical workplace safety issue OSHA in cooperation with the National Highway Traffic Safety Association has dedicated resources to develop a guide and resources to help show the importance of fleet safety. https://www.osha.gov/Publications/motor_vehicle_guide.html

The most important component of any fleet safety program is defining who is allowed to drive on company business. Not just who is assigned a company truck, but who is allowed to drive their personal vehicles on company business. This "non-owned" exposure can create a significant risk for any organization. The liability exposure for anyone operating a vehicle on company business ultimately falls upon the company, and can create as much liability as owned vehicles. Each year we see multiple claims over $1MM involving "non-owned" drivers, so it is critical to make this a part of any fleet safety / risk management program.

Managing drivers and fleet safety should be an important part of any risk management program. It can take some time to develop policies and procedures specific to your operations and maintain the records for drivers, but this is time well spent in order to reduce potential liability exposures for the organization.

The other aspect of controlling who is driving on behalf of the company is to ensure there are clear rules for the use of vehicles by non-employees and for non-business use. Insurance coverage follows the vehicle, so if a 16 year old kid hops in the superintendent's company truck over the weekend and has a serious auto accident injuring a third party, the company will be responsible and the commercial auto policy will respond. Clearly defined rules for utilization of company vehicles can help reduce this exposure.

Once the list of individuals allowed to operate a vehicle on company business is identified, the next step is to determine the qualifications each driver must maintain in order to drive on company business. Failure to properly screen all drivers will create potential "negligent entrustment" exposures for the organization and the negative financial consequences should an individual with a poor driving history be involved in an accident.

Most insurance companies use the guideline of no more than 3 moving violations or at fault accidents in the past three years and no more than 2 violations or accidents in the past year as their guideline for an "acceptable" driver. In addition, there are single events which should result in the driver being excluded from any driving privileges such as a DUI, driving without a license, or vehicular homicide. We encourage our clients to not rely on the insurance company to manage their drivers. It is best for new hires to provide their own driving record during the interview process and check motor vehicle record checks annually for your own staff rather than have an insurance company tell you who can and cannot drive for your organization.

It is also a good risk management practice to require individuals to maintain personal insurance if they are driving on behalf of the company. These really need to be more than the State minimum liability limits of $30,000 per person, $60,000 per accident for bodily injury and $25,000 property damage, as they are not adequate to protect the individual or the company from a significant collision. Requiring a $300,000 combined single limit will help insulate the company's auto policy and reduce the risk of the individual being personally responsible for damages beyond these State minimums (depending on the type of vehicle this might cost from $50-$100 per year for 10 times the coverage). The mileage reimbursement rates account for this level of insurance. Per the IRS mileage calculations over 10% of the current .58 cent reimbursement rate is to pay for adequate insurance.

If you would like sample fleet safety policies or have questions about this or other safety / risk management issue, please do not hesitate to call or drop me a note.

Mark

For more information about Non-Owned Vehicles / Driver Safety and other solutions from Marsh Wortham, contact your local representative or:


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