

Risk Monitor



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Do Your Employees Drive Personal Vehicles for Business-Related Purposes?

If an accident occurs while an employee or volunteer is operating their personal vehicle for company business, your company could be held liable. Even when an employee is just running an errand, such as making a bank deposit, dropping off a proposal or picking up a part, if an accident occurs your company could suffer as a result.

While you cannot insure a non-owned vehicle, there are other steps you can take to protect your company before a loss occurs. If your employees or volunteers use personal vehicles for company business, even if just occasionally, the following guidelines can help reduce your risk:

1. Determine a minimum level of auto liability insurance your employees and/or volunteers must carry. Also consider what documentation should be provided to your company to demonstrate that proper insurance coverage is in effect. For example, you might require that employees or volunteers submit a certificate of insurance each year that verifies coverage limits.
2. Driving records should be checked prior to an employee's hiring. Validate driving credentials and check for accidents and moving violations over the past 5 years. All recruiters, managers and human resource people should be aware of this policy.
3. Avoid having youthful drivers, those with little driving experience, or drivers with more than one moving violation or accident use their vehicle for business-related purposes.

While you cannot insure a non-owned vehicle, there are other steps you can take to protect your company before a loss occurs.

4. Periodically check driving records for new offenses and moving violations. Introduce a procedure for how discovery of new offenses will be handled.
5. Develop a written policy on business use of personal vehicles and communicate to all employees. Managers, human resource personnel and recruiters should share this information with any potential new hires.
6. Be sure you remain in compliance with local, state and federal statutes while obtaining private information about your employees.

Insurance can play a role in helping to protect your business from this exposure. Non-owned auto liability insurance may be obtained on a stand-alone basis or in conjunction with your general liability coverage. Coverage for hired vehicles may also be available, if needed.

Insurance premiums for non-owned automobile liability depend on the frequency of personal vehicle use and how employees use their vehicles for your business. Premiums for this line of coverage are generally fairly reasonable.

Another way to reduce risk is to eliminate the exposure. If employees or volunteers are prohibited from using their personal vehicles for business-related purposes, it eliminates the possibility of an accident that will affect your company.

In the meantime, while you are mapping out your risk reduction strategy, maybe you should consider making that bank deposit yourself...



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Protect Your Business When Using Social Media

By the beginning of 2011, the social networking Web site Facebook had more than 600 million users. An estimated 200 million people use micro-blogging service Twitter. The business networking site LinkedIn has reported that it has more than 100 million members. In addition, the Internet hosts millions of blogs and tens of thousands of podcasts. These sites and media, popularly known as “social media,” have opened up new ways for people and businesses to communicate with each other. As the numbers show, they have become extremely popular. Consequently, businesses are increasingly using social media to reach current and potential customers.

However, use of these services presents risks along with the potential benefits. For example:

- Employees making posts on these sites may make inaccurate statements, particularly when not all the relevant facts of a developing situation are known.
- They may inadvertently release confidential information.
- They may make statements that embarrass the company, such as negative remarks about racial or ethnic groups.
- They may make statements that violate a person’s privacy.
- Disparaging statements may provoke others to sue the company for libel. For example, if an employee of a restaurant posts on Twitter that a competitor’s stew looks and tastes like cheap dog food, the competitor may sue.
- Blog posts that offer advice may expose the employer to lawsuits if others take the advice and get undesirable results.
- Disgruntled customers, employees or competitors may post disparaging comments about the company.
- Any of these situations can harm the company’s reputation.

The company’s general liability insurance policy might not pay for the costs of defending against these claims or paying settlements. For example, the insurance will not cover losses resulting from:

- An injury caused by or at the direction of an employee when he knew that the action would violate a person’s right to privacy
- An injury caused by or at the direction of an employee when he knew that a statement was false
- Claims that the business’s products or services do not live up to statements about their quality
- Injury arising out of statements made on Internet chat rooms or bulletin boards the business owns or over which it has control
- Unauthorized use of someone’s name or product in a manner that misleads that company’s potential customers

In addition, the insurance only covers liability for certain types of injuries that are not bodily injuries. It will not cover a

lawsuit filed by someone who suffered financially after relying on advice on the company’s blog.

To reduce the chance that an uninsured loss will result from the use of social media, businesses should consider:

- Written procedures for employee use of social media, including
 - Who may post on the company’s behalf
 - Definitions of acceptable and unacceptable behavior
 - Employees’ personal sites should make clear that that the employees are not speaking on behalf of the company
 - When a discussion should move offline and into the company’s regular workflow (for example, when a customer has a specific complaint that should be handled out of public view)
 - The consequences of non-compliance.
- Company policies regarding employees’ ability to link to the company’s Web site on their personal social media pages. The policy should also address employees’ use of the company name, logo, or other advertising on their sites.
- Company policies on the content that employees may post on blogs, both those of the company and others blogs where the employees post on the company’s behalf.
- Purchasing special insurance to fill in gaps left by the general liability coverage

Social media offers exciting new opportunities for businesses to build relationships with customers. However, they need to approach it with care and proper planning if they want to reduce the risks.



Is It Legal for You to Obtain Your Employee's MVR?

Employers frequently require their workers to drive on company business. For some firms, driving may be the major part of employees' jobs. Other companies may need salespeople or inspectors to drive as an incidental but necessary part of their jobs. Even companies that perform most of their work in an office will need employees to drive at least occasionally to projects, conferences, or job sites. Employers who require their employees to do driving at all take the risk that their workers will become involved in automobile accidents. These incidents subject employers to medical bills, the costs of repairing or replacing damaged vehicles and property, and potential lawsuits from third parties.

Employers can get a fair picture of how employees drive by obtaining copies of their employees' motor vehicle records (MVR). Employers who decide to do obtain their employees' MVRs need to be aware of the boundaries set by federal and state laws.

Congress enacted the Driver's Privacy Protection Act (DPPA) of 1994 to restrict access to personal information that may appear on an individual's driving record. Personal information is anything that can identify a person, such as a name, photograph, Social Security number, phone number, address, or similar information. The law allows a motor vehicle bureau to release the record, including personal information, to anyone who has a permissible use. There are 14 permissible uses; three are relevant to employers. A bureau may disclose information for use in the normal course of business to verify the accuracy of personal information a person provided to the business and, if the information is inaccurate, to obtain accurate information to prevent fraud. Also, an employer may obtain information relating to the holder of a commercial driver's license. Any person may obtain another's MVR if he can show a written consent by the other party for its release.

The federal Fair Credit Reporting Act (FCRA) is more restrictive. This law governs the release of consumer reports, a term that includes driving records, credit reports, credit scores, and others. It provides that a consumer reporting agency (such as Equifax) may not release a consumer record to an employer for employment purposes unless the consumer has given written permission. Therefore, a messenger service that wants to look at prospective employee Bob's driving record before hiring him must get Bob's written permission first. The consumer reporting agency must give Bob a Summary of Consumer Rights. If the employer takes an adverse action against Bob (doesn't hire him, declines to promote him, etc.) at least in part because of the information in his report, it must give him a Notice of Adverse Action, advising him of the information that affected the decision and the name of the reporting agency.

Some employers ask their insurance agents to obtain employees' driving records. The DPPA permits agents to order these records for insurance purposes and allows a person with a permissible use to share information with another person with a permissible use. The FCRA, however, imposes on the agent the same obligations that a consumer reporting agency would have. In addition, some vendors forbid agents from sharing the records.

Businesses have a legitimate need for some information about how their employees drive. Employees have an equally legitimate concern about who will see their information and how it will be used. These laws attempt to balance business needs and employee privacy rights. All employers should familiarize themselves with these laws and state laws that may restrict their access to personal information.

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more after they terminate employment. Some companies will extend coverage to certain non-employees who may have the opportunity to commit theft, such as equipment support technicians, consultants, and vendors.

Many policies include a "prior dishonesty" clause. This immediately cancels coverage for an individual employee if the organization discovers that the employee has committed a dishonest act, including acts other than theft and acts he committed prior to his current employment. Even relatively minor dishonest acts will eliminate coverage for that employee. Some insurance companies will amend the policy to cover certain individuals on a case-by-case basis, so the employer should work with the insurance agent and company to arrange coverage.

Insurance companies offer this coverage either as a separate policy or as part of a package policy. If it comes as part of a package, the employer should carefully review the policy

to determine whether the amount of insurance provided is adequate. Package policies often come with certain insurance limits built in, and they may or may not be enough for a given situation. For example, a package policy that automatically provides \$100,000 coverage may be fine for the smallest of businesses, but it would have been way too small to cover the losses described at the beginning of this article.

Employees can either make a business successful or drag it down. No organization wants to believe that its workers would steal from it, but unfortunately some of them will. To make sure that they have adequate protection, all employers should work with a professional insurance agent and purchase employee dishonesty coverage. With the right insurance, the organization and its trustworthy employees will survive a large loss caused by the untrustworthy few.

When Good Employees Go Bad: Why You Need Employee Dishonesty Insurance

An employee in a high school's finance department steals \$279,000 to support her gambling habit and cover her mortgage payments. A bank employee in Pennsylvania allegedly embezzles \$750,000. The former CEO of a Colorado insurance brokerage pleads guilty to stealing \$353,400 from the brokerage's employee benefits plan. The office manager of a Texas law firm gets four years in prison for forging checks and depositing client payments in her personal bank account.

When people become desperate, they may succumb to temptation and turn to crime. The FBI reported that one in 28.2 employees was caught stealing from an employer in 2007, and that was before the worst of the recent economic downturn. Vendors' employees and other visitors to an organization's premises may also have the opportunity to steal computer equipment or network passwords.

Most business property insurance policies cover losses resulting from some types of crime. For example, they will cover the cost of cleaning up graffiti that vandals spray paint on an exterior wall or the value of merchandise burglars steal, plus the cost of repairing



the damage they did breaking into the store. However, insurance companies did not design these policies to cover money stolen from a cash register or deposits never made to a bank; in fact, the policies almost never cover employee crime. For this reason, every organization should consider buying crime insurance.

Employee dishonesty insurance, often called fidelity coverage, pays for losses due to employee theft of money, securities, and other property. It covers property the organization owns or leases, property of others in the organization's custody, and property for which the organization has legal liability. Insurance companies can provide one amount of insurance that applies separately to each loss, regardless of how many employees were involved in the theft and regardless of whether the employer can actually identify the responsible employees. Alternatively, the policy can contain a list (known as a schedule) of either employee names or positions with a separate amount of insurance listed next to each one. The policy can cover permanent, temporary and leased employees for up to 30 days or

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