

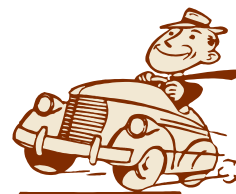
MOTOR VEHICLE FLEET Management Bulletin

FROM THE [LOSS CONTROL DEPARTMENT OF THE HARTFORD](#)

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Hired, Non-Owned Automobile

Do You Own It?



Many businesses have automobile loss exposures that you may not be aware of. Most managers are only concerned with their own fleet operation. That is, managing the performance of the drivers that were hired to operate the company's own vehicles. But, many businesses forget or don't realize that they have an additional automobile exposure that arises from individual employees who operate their own personal vehicles on company business. This can be as innocuous as an administrative employee who uses their own vehicle to go to the post office or bank once a week for the company, or as extensive as a large sales force that is provided a monthly car allowance for personal vehicle use in lieu of a company vehicle.

So, what's the concern? Isn't the individual employee responsible for properly operating and maintaining their own vehicle? If a collision occurs, doesn't the employee's own automobile coverage respond? The answer is yes to both questions. However, your company may be drawn into the situation under the theories of negligence or vicarious liability. This could easily happen because of the following:

- ◆ The employee has let their automobile insurance lapse.
- ◆ The employee only carries the minimum limits of coverage that the state's law requires.
- ◆ The employee's vehicle is not properly maintained.
- ◆ The employee's driving record (Motor Vehicle Record) is below standard.
- ◆ Your company does not have any fleet controls or policies in place to address any of these issues.

How do these circumstances involve your company? Consider the following scenario. Sally Jones works for ABC, Inc. Part of her job description and requirements includes a weekly trip to the bank. On Thursday, Sally drove to the bank. After making the deposit, she was on her way back to the office when she was involved in a collision. The collision occurred because she attempted to "beat the light" and ran a red signal light that resulted in a collision at the intersection. Both vehicles were totaled. There were serious injuries to the occupants of the other vehicle, one of which was a small child. Sally was charged with failure to yield for a red signal light.



The subsequent investigation revealed the following:

- ◆ Sally carried only the state mandated minimum limits of automobile liability coverage of \$50,000.
- ◆ Sally's Motor Vehicle Record (MVR) revealed that she had three speeding tickets within the last two years and that she also had been cited for failure to yield at an intersection.

As a result of the collision, the other party's insurance carrier filed for subrogation under Sally's policy. Sally's insurance company paid its policy limit of \$50,000 however the total value of the claim was set at \$1,000,000. The other insurance company also filed for subrogation under ABC, Inc's. insurance policy for the difference. The other party hired an attorney and named Sally and ABC, Inc. as co-defendants alleging negligence on Sally's part as well as ABC, Inc. Sally was alleged to be negligent in failing to stop for a traffic control device, reckless driving and speeding. ABC, Inc. was alleged to be negligent for failure to perform due diligence before permitting Sally to operate a motor vehicle on company business. The lawsuit alleges that ABC, Inc. was negligent in not securing a copy of Sally's MVR, not properly evaluating the MVR, and not properly supervising the employee.

If the plaintiff is successful in the lawsuit, the costs to ABC, Inc. could be substantial. If found negligent ABC, Inc. could be potentially responsible for \$950,000 in damages (\$1,000,000 - \$50,000). If the jury determines that punitive damages are warranted, the costs could be two to three times the underlying damage amount.

What should you do about this Hired Non-Owned exposure? At the minimum your company should do the following:

- ◆ Identify all employees who operate their own personal vehicles on company business.
- ◆ Require the employee to provide proof of adequate limits of automobile liability insurance. The question to ask is \$300,000 or even \$500,000 adequate? Please consult with your insurance agent or broker for advice.
- ◆ Obtain periodic MVR's on all employees with driving responsibilities, including those who operate their personal vehicles. The MVR's should be reviewed and evaluated against written criteria. Where the MVR is determined to be unacceptable, the employee should not be permitted to operate a vehicle (company-owned or employee-owned) on company business.
- ◆ Inspect the employees' vehicles and determine they are in a good and roadworthy operating condition and that all safety devices, such as headlights, signals, brake lights, backup lights, horn, windshield, etc. are in proper working order.
- ◆ Document everything you do so that you have written records/files.

If you have a large fleet of hired and non-owned vehicles, such as a large sales fleet, the same fleet controls should be established and applied, just as for drivers of company-owned vehicles. This would include all of the above, plus driver training programs and formal collision review procedures.

The hired and non-owned exposure can place the company's assets at serious risk. Implementing controls will help in reducing and minimizing the Hired Non-Owned risk.

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