Non-Owned Automobile Exposure

Do you know that you could be liable for accidents caused by your employees while driving their own vehicles?

Your office manager heads out for lunch and, on the way, stops at the bank to make a business deposit. Your plant foreperson leaves a little early to drive over to a supplier's location to check on a new product before heading home. Your salesperson is leaving for a driving vacation with her family and you ask her to make one stop at a customer's location while on the road.

If an accident occurs in any of these scenarios, your business automobile policy can be brought in to pay damages. The exposure is called Non-Owned Auto Liability and it can contribute to large losses and increased expenses for your business.

What do we mean by the term Non-Owned Auto?

It is as it sounds - liability for autos that are not owned by you!

The term "non-owned auto" in an automobile policy refers to autos that you do not own, lease, rent or borrow that are used in connection with your business. It's the use of an employee's personal vehicle by the employee to conduct business activities for their employer under the approval and/or knowledge of the employer.

Virtually every business entity has a non-owned auto exposure, regardless of how infrequently it may arise. As shown earlier, this use could be as simple as an employee making a daily trip to the bank, a trip to the local office supply store to purchase supplies or an outside salesperson making calls on clients. The use of the vehicle could be in town, in state or across many state lines.

Why should I be concerned with employees using their personal vehicles for business purposes?

Should the employee have an at-fault accident or a crash while operating his/her vehicle in the course of conducting employer related business, the employee and the employer could be held liable for any liability or property damages.

What about the employee's own policy? Why doesn't it respond?

If the employee has his/her own auto insurance, it will generally respond as the primary coverage and then the employer's auto liability insurance will be in excess of any damages above and beyond the policy limits of the employee's personal insurance coverage.

In some states the minimum required Financial Responsibility limits of a personal automobile insurance policy can be as low as $10,000/$20,000. The employee may not wish to purchase higher limits than what is required in the state. Should the damages resulting from an at-fault crash result in damages greater than that amount, the employer could be held liable for those damages.

Even when individuals desire higher limits, they might not be available. Quite simply, an individual is unable to obtain the limits of insurance that are commonly available to a business. The limits available are generally a function of the individual's net worth - - employees in their early 20s who rent may not be able to obtain the same limits as employees in their late 30s who own a home.

In addition, many personal auto liability policies will exclude coverage if business delivery is involved. In these cases, your organization will still be excess, but there will be no underlying coverage.

Isn't that why I purchase non-owned automobile insurance coverage for my fleet operations?

It is true that businesses purchase insurance coverage for non-owned automobile use, just as they do for their Workers' Compensation, Property and General Liability exposures. But businesses still use sound risk management procedures to limit their loss potential and to work in conjunction with those insurance coverages.

Employers insist that employees wear safety goggles to protect their eyes or use ear plugs to muffle sound that can damage hearing. They make sure that flammable liquids are stored properly and separately to reduce the potential for fire. They keep sidewalks clear in the winter so visitors and employees don't fall and injure themselves.

Why not do the same for non-owned auto operations? Often these operations are unintentionally overlooked and considered only after a loss has occurred. That's a painful way to learn about non-owned auto exposures!

What can I do to eliminate or reduce non-owned auto losses?

The most effective means to reduce and control non-owned auto losses is to establish a policy to not allow employees to operate their personal vehicles for business purposes. If errands need to be run, have the employee use a company-owned vehicle.

If employees must use their own vehicles for business, look for ways to lower your exposure to loss.

First, don't let employees drive their own cars for business when you are not comfortable allowing them to drive a company vehicle. Just as you review the driving records of your drivers assigned a company vehicle, review the motor vehicle records of employees who use their own vehicles for business purposes. Peoples' behaviors on-the-road don't vary between work and their personal life. If the driver doesn't meet your standards, do not let them drive <u>any</u> vehicle for business.

If you knowingly allow a poor driver to drive and a serious crash occurs, charges of "Negligent Entrustment" may be filed against you. Negligent entrustment means to charge someone with a trust or duty in an inattentive or careless fashion or without completing required process steps. If proven, you can be held liable for all damages (including punitive damages which may be non-insurable based on state public policy). More information concerning Negligent Entrustment is discussed in the Fireman's Fund Loss Control Insight, "Negligent Entrustment."

Second, recognize that an employee's personal vehicle may not be maintained as well as a company-owned vehicle and might not be road ready when needed. The employee could also be uninsured, underinsured, not have a valid driver's license or have a poor driving record.

When use of a personal auto is required for business purposes, use sound risk management practices to minimize the liability exposure to your organization by:

- ♦ Treating the operation of an employee-owned vehicle the same as the operation of a company-owned vehicle.
- ♦ Regularly inspecting the vehicle to assure road readiness and verify that proper maintenance is being conducted.
- ♦ Maintaining a copy of the employee's valid driver's license.
- ♦ Reviewing the employee's Motor Vehicle Record for acceptable driving performance.
  - An MVR standard should be established using MVR guidelines contained in the Driver Selection module of Fireman's Fund Fleet Manager's Guide or contained in the Loss Control Insight, "Motor Vehicle Record Review."
  - An MVR review should be conducted prior to allowing driving and annually thereafter.
- ♦ Recommending that employees carry minimum liability limits of $100,000/$300,000 or $300,000 combined single limit on their personal automobile insurance policy.
- ♦ Requiring a current Certificate of Insurance or a photocopy of the declarations page of the employee's personal automobile insurance policy for the driver's file.
- ♦ Performing a "road test" with the employee to assure proper driving ability and performance.
- ♦ Including employees in driver training and safety meetings.

The operation of personal vehicles for business purposes creates a significant , and, too often, unexpected exposure for a business. By understanding how non-owned auto operations may impact your business, you can implement consistent policies and procedures to manage, control and reduce the potential for accidental loss.

The above suggestions offer assistance and guidance and should be viewed as minimum standards for controlling non-owned automobile exposures. Your Fireman's Fund Loss Control Consultant can provide additional information and assistance.