

Negligent entrustment of company vehicles

Negligent Entrustment is a legal concept that business owners and managers should know. A Negligent Entrustment judgment against your company will put your company's assets at risk, and may put you out of business.

Negligent Entrustment is best defined as "entrusting a vehicle to an individual without ensuring that the individual has a valid driver's license" or "allowing the person to drive a company vehicle despite the individual's past driving history, known or unknown."¹ The result of a negligent entrustment judgment is often punitive damages awarded by the jury. Many insurance policies do not cover punitive damages (some states do not allow punitive damages to be covered by insurance). Even if your policy does cover punitive damages, a Negligent Entrustment judgment may exceed your Automobile Liability/Umbrella Liability policy limits.

How to avoid negligent entrustment

- On the written job application, include a place to list all driving violations or accidents for the past 5 years. Also, on this application, include a section authorizing the employer to obtain and review motor vehicle records (MVR) on a regular basis.
- Before allowing anyone to drive a vehicle for company purposes, have the individual provide proof of a valid driver's license. It should be inspected and photocopied.
- If the individual has lived in other states during the previous 5 years, obtain drivers' license information for those states so that the driving records for them can be checked as well.
- Require all drivers to report any violations they receive or accidents they are involved in as soon as practical after they occur. This includes incidents involving personal vehicles.
- Check all drivers' MVRs at least once a year.

Other risk control measures

Driver Selection is a critical link in helping to protect your company's assets from automobile loss exposures. This is based on the fact that 95% of all vehicle accidents are caused by human error.

Other important factors include:

- Vehicle Condition and Maintenance
- Accident Investigation
- Driver Training
- Policy of Restricting Personal Use of company vehicles (including those vehicles that go home with employees after work hours).

Evaluating the current status of your company's fleet safety and risk management programs and policies, and taking the effort to improve them where needed, will help limit your company's exposure to a Negligent Entrustment judgment, as well as help control your future insurance costs. Your Allied Loss Control Representative is available to assist you with developing or improving your company's safety programs and policies.

1. Quoted from Ronald Green, attorney at Epstein, Becker & Green, from an article in the July, 1994 issue of Automotive Fleet.
2. National Safety Council Accident Facts

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