

Obtaining Motor Vehicle Records

Purpose

This bulletin is intended to provide information to employers on how to obtain and review the driving history of their employees while remaining in compliance with the Fair Credit Report Act (FCRA) and Drivers Protection Act (DPA). Because of misconceptions about the Fair Credit Reporting Act (FCRA), many employers believe that reviewing the driving history of an employee is inconvenient and complicated. However, with the proper controls and guidelines in place, it is relatively easy to review the driving history of an employee and still be in compliance with the FCRA and DPA.

What is required?

The driving history of an employee can be accessed by obtaining a Motor Vehicle Report (MVR). An MVR is a standardized report listing the moving violations of the individual. The MVR should be obtained for the most recent 3 year period from the state(s) where the employee holds or has held a driving license. For existing employees with responsibilities involving driving, an updated MVR should be obtained annually. MVR's can be obtained directly from a State Department of Motor Vehicles or through a private firm in the business of providing personal information.

What are the liability exposures?

Failure to review the driving history of an employee increases an employer's exposure to Negligent Entrustment litigation. This is a direct claim against the employer, completely separate from any vicarious liability for the

employee's actions. As an employer, you are responsible for placing safe drivers on the road. Having minimum "Driver Eligibility Criteria" in place and using an MVR to determine acceptability are ways to reduce this exposure.

What controls should be in place?

Before an employer reviews the driving record of an employee it is important that the employee is notified that their driving record is subject to review and that punishment and/or termination may result if it is determined that their driving record is not adequate (based on predetermined guidelines). The employer must have supporting documentation through signatures and/or written consent from the employee acknowledging and agreeing to these terms. This notice and accompanying documentation must be conspicuous and must be provided on a separate document (so to prevent any disclosures from being buried in an employment application).

Sample disclosure

Employees are subject to having their MVR's (motor vehicle records) reviewed on a pre-hire basis, random basis, and annual basis. MVR's may also be reviewed regularly thereafter if suspicion exist of non-reported violations. MVR's will be evaluated based on the guidelines as set forth by the Motor Vehicle Record Criteria. If an employee's MVR is not deemed not acceptable or does not meet the Motor Vehicle Record Criteria then the ability of that employee to drive in a work related capacity may be lost and the employee may be terminated.

Sample Guidelines (Motor Vehicle Record Criteria over 3 Year Period)

Number of Minor Violations	Number of at-fault accidents			
	0	1	2	3
0	Clear	Acceptable	Borderline	Poor
1	Acceptable	Acceptable	Borderline	Poor
2	Acceptable	Borderline	Poor	Poor
3	Borderline	Poor	Poor	Poor
4	Poor	Poor	Poor	Poor
Any major violation	Poor	Poor	Poor	Poor

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Obtaining Motor Vehicle Records continued ...

Minor Violation:	Major Violation:
Any minor violation other than a major except: <ul style="list-style-type: none">• Motor vehicle equipment, load or size requirement• Improper/failure to display license plates• Failure to sign or display registration• Failure to have driver's license in possession (if valid license exists)	<ul style="list-style-type: none">• Driving under the influence of alcohol/drugs• Failure to stop/report an accident• Reckless driving/speeding contest• Driving while impaired• Making a false accident report• Homicide, manslaughter or assault arising out of the use of a vehicle• Driving while license is suspended/revoked• Careless driving• Attempting to elude a police officer

How to Obtain an MVR

Obtaining an MVR is relatively easy. Please note that than an employer should only obtain an MVR after adequate controls (such as those mentioned above) have been put into place. There are 2 common ways to obtain an MVR, all of which end in the same result.

1. Have employees provide their MVR

- Preferred method of obtaining an MVR; liability exposures are minimized because of employees providing their MVR. Please note that it is still recommended that employees sign a disclosure indicating that their MVR is subject to being reviewed and that they are familiar with the grading criteria for being eligible to drive in a work related capacity.
- Employees can obtain an MVR by visiting the Department of Motor Vehicles (DMV) office in person (in the state that their drivers license is valid in) or by logging onto a related website, answering a series of questions, and printing their MVR.
- Cost of processing an MVR ranges but is typically around \$3.

2. Hire an outside group to run an employee's MVR

- Tend to have additional cost because of convenience.
- Handle all paperwork and disclosers.
- Perform related services such as criminal background checks and drug testing for CDL drivers.

What are the Guidelines when Reviewing an MVR

The eligibility of an employee to operate a company vehicle can be determined by comparing the driving record of that employee to the guidelines as set forth in the Motor Vehicle Record Criteria. Although the employer can establish these guidelines, these guidelines must at least coincide and/or meet the minimal guidelines as set forth by your insurance.

Employers should use these guidelines as a resource to determine what is considered acceptable and to take corrective action if the driving record of an employee is deemed not acceptable.

In the event that it is determined that the driving record of an employee is not acceptable, it is required that the employee is provided with a document "A Summary of Your Rights Under the Fair Credit Reporting Act" that is issued by the Federal Trade Commission (FTC). This document outlines the steps an employee can take when contesting any incorrect information in their MVR. Furthermore, if it is determined that the information on the MVR is correct, the employer can proceed to take corrective action in accordance with the disclosure that the employee agreed to and signed. Please note that it is recommended that the employer document each step in the process for liability purposes and that the corrective action that is taken is non-biased and consistent.

MVR data is confidential information. Refer to HIPPA for proper handling of information protected by the privacy laws.

Final Thoughts

Because this document addresses privacy issues and the legalities of reviewing an employee's driving record, it is recommended that employers seek legal council prior to implementing any policies or procedures indicated in this document. This document may not address policies that are specific to certain states and/or union groups. For additional information please contact your local loss control representative or visit the Fair Credit Report Act (FCRA) website www.ftc.gov/os/statutes/fcra.htm