

## Non-owned vehicle controls

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Vehicle operations can create substantial risks for any organization. These risks occur when employees drive an organization's vehicles, as well as vehicles the organization does not own, such as the employee's personal vehicles or rental cars. Many organizations have controls in place to reduce accidents among their own fleet of vehicles, but they often do not apply these same controls to non-owned vehicles. They may feel they are not responsible for accidents that occur in vehicles they do not own or that the insurance policy on the non-owned vehicle will cover accident costs. Consider the following loss scenario.

### Loss scenario

Lisa is an administrative assistant for ABC, Inc. Among her administrative duties, she has volunteered to run errands for the company during her lunch break. This generally includes stopping at the bank and the post office several times each week.

During one of these trips, Lisa stopped at a post office to mail several packages and invoices. After mailing these items, she returned to her car.

As Lisa began backing out of her parking spot, she heard a thud. She instinctively hit the brake. In front of her, a man with a concerned look waved at her excitedly, signaling her to stop. He rushed over. On his way past Lisa's door, he tells her that she hit someone.

Behind her vehicle the man was helping a woman who was lying on the ground. The woman said that her left leg hurt and that she could not stand up. Someone called 911. A few minutes later the police and an ambulance arrived. The police began collecting information about the accident.

Six weeks after reporting the accident to her insurance company, Lisa received a letter from the woman's attorney. The letter described a list of medical problems the woman had endured as a result of being struck by Lisa's vehicle. The attorney was demanding \$283,000 to pay for the woman's medical bills, pain and suffering and lost wages while she recovered. Lisa's auto liability insurance policy limit is \$30,000. Through investigation, the attorney discovered that Lisa was working on behalf of ABC, Inc. He subsequently presented the company with a claim for \$253,000, the uncovered portion of his client's damages.

### Loss lesson:

Vehicle operations, no matter how incidental, and regardless of who owns the vehicle, can become a significant exposure for an organization. Organizations regularly pay out substantial sums of money, and find themselves involved in lawsuits, related to accidents that occur while employees are driving vehicles the organization does not own. Why?

- Under the legal doctrine of *respondeat superior*, which simply means "let the master answer," a company can be found responsible for the negligent actions of its employees performed within the scope of employment. This applies to employees driving within the scope of employment, no matter who owns the vehicle.
- Several states do not require auto liability insurance. In states that require coverage, there are still a large number of drivers who do not have insurance.
- State minimum limits for personal auto policies can range from \$10,000 to \$50,000 in many states, which is not adequate to cover most serious accidents.

### Controlling non-owned vehicle exposures

Following are steps organizations can take to help identify non-owned vehicle exposures and determine if adequate controls are in place.

- **Identifying and classifying non-owned vehicle drivers** – Organizations are not always aware of the full extent of their non-owned vehicle exposures, so they need to carefully identify who is driving and how often. While individuals who drive frequently are obvious, make sure to include these often-forgotten drivers:
  - > Sales and service employees, technicians, engineers, etc.
  - > Part-time and temporary employees, as well as interns.

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- > Volunteers, coaches, board members and elected officials.
- > Employees who run errands, pick-up and deliver parts, or who pick up customers at the airport.
- > Individuals attending seminars and conferences.
- > Individuals who rent cars during business trips.

Once identified, drivers should be grouped by the level of exposure they present to the organization so appropriate controls can be implemented.

- **Monitoring driver licensing and Motor Vehicle Records (MVR)** – Allowing employees with poor driving records to operate vehicles for your organization can increase your exposure to liability. Therefore, it is important to have procedures to ensure that all drivers have a valid driver’s license and an acceptable driving record. An MVR policy should be in place that outlines how often MVRs are reviewed, the organization’s standards for moving violations and accidents and what actions will be taken if a driver’s MVR is not acceptable. Reviewing MVRs at least annually is recommended. The following grid is a sample MVR evaluation tool:

		NUMBER OF PREVENTABLE ACCIDENTS			
		0	1	2	3+
Number of Moving Violations	0	CLEAR	ACCEPTABLE	BORDERLINE	POOR
	1	ACCEPTABLE	ACCEPTABLE	BORDERLINE	POOR
	2	ACCEPTABLE	BORDERLINE	POOR	POOR
	3+	POOR	POOR	POOR	POOR
ANY MAJOR Moving Violations (Past 5 years)		POOR	POOR	POOR	POOR

**THIS IS A SAMPLE. YOU SHOULD CUSTOMIZE CONTROLS TO MEET YOUR ORGANIZATION’S NEEDS AND EXPOSURES.**

- **Safe driving rules and policies** – All staff driving on behalf of the organization should be required to abide by safe driving rules, including individuals driving their own vehicles or rental cars. Drivers should sign an acknowledgement that they understand and will abide by these rules. Rules to consider include, but should not be limited to:
  - > Establish minimum auto liability insurance requirements.
  - > Allow only authorized personnel to operate non-owned vehicles on behalf of the organization.
  - > Require drivers to abide by company vehicle safety rules as well as all federal, state and local motor vehicle regulations, laws and ordinances, including obeying speed limits, adhering to the company’s prohibition on using mobile technology while driving, etc.

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- > Require drivers to bear the responsibility for all fines, defense costs and other legal penalties arising from ticketed offenses.
- > Prohibit the possession or use of alcohol or illegal drugs while operating the vehicle for business purposes. Prohibit drivers from operating vehicles when their ability is impaired, affected, or influenced by alcohol, illegal drugs, medication, illness, fatigue or injury.
- > Require drivers and all occupants to wear seat belts when operating or riding in the vehicle. The driver is responsible for ensuring all passengers are wearing seat belts at all times.
- > Allow only authorized/approved passengers (i.e., those with a defined business relationship) during the course of business use.
- > Prohibit the use of radar detectors, laser detectors or similar devices.
- > Require drivers to notify their supervisors of any moving violations, accidents or license suspensions or revocations, whether the vehicle was used for business purposes or not.
- **Driver training** – Most drivers receive their driver's license between the ages of 16 and 18. After that, few drivers receive additional safe driving training. Drivers can develop bad habits after years of driving, such as speeding, tailgating, failing to yield and driving while distracted, to name a few. All drivers should receive periodic safe driving training prior to driving on the organization's behalf and at least annually thereafter. Good training topics include:
  - > Safe following distance
  - > Speed and space management
  - > Distracted and inattentive driving
  - > Intersections and yielding the right-of-way
  - > Effects of alcohol, drugs and fatigue on driving

A wide variety of training resources are commercially available, including videos/DVDs, interactive self-study computer programs, seminars and written training materials. All training should be documented.

- **Vehicle inspection and maintenance** – Poorly maintained vehicles can cause accidents. Establish a system to ensure that non-owned vehicles used for organization business are in safe operating condition. Require non-owned vehicles to be inspected and maintained in accordance with manufacturer's guidelines. For large trucks, require inspection, repair and maintenance records to be submitted periodically.
- **Risk transfer** – Organizations can transfer many of the costs of an accident back to the vehicle operator's insurance company, provided adequate insurance is in place. Organizations should require non-owned vehicle drivers to provide proof of liability insurance in the form of a current certificate of insurance. A system should be in place to ensure new certificates are obtained at policy renewal. Consult with your insurance agent regarding limits appropriate for your organization. For additional protection, the organization should be listed as an additional insured on the non-owned vehicle liability policy. Many personal lines policies exclude "business use" of the vehicle. Organizations should ensure this exclusion is not part of the individuals' coverage. To offset employees' expense for operating their vehicles for business purposes, many companies reimburse employees for the use of their vehicles. This may be a monthly allowance or a specific rate per mile. In either case, a portion of the allowance/rate is typically for insurance. Therefore, a company should ensure they are getting what they paid for by obtaining proof of insurance with adequate limits.

## Non-owned vehicle controls

The following table represents a sample non-owned vehicle controls guide that classifies drivers according to the level of exposure they present. The guide summarizes non-owned vehicle controls appropriate for each group of drivers.

### Sample Non-Owned Vehicle Controls Guide

	EXAMPLES	MOTOR VEHICLE RECORD (MVR)	NON-OWNED VEHICLE CONTROLS (PERSONS DRIVING THEIR OWN VEHICLES)
<b>PROFESSIONAL DRIVERS</b>  Persons who drive as their main responsibility or any person transporting passengers.	Truck drivers Deliver drivers Chauffeurs Snowplow operators Any employee or volunteer who transports passengers: – Coaches – Social services – Van pool drivers Transportation of hazardous materials	Pre-employment and annually thereafter	Certificates of insurance Insurance limits of at least \$100K/\$300K/\$50K Organization listed as an additional insured Annual vehicle inspection Monthly inspection/maintenance reports Safe driving rules/policies Frequent defensive driving training
<b>NON-PROFESSIONAL FREQUENT DRIVERS</b>  Persons whose main responsibility is not driving, but drive frequently to carry out their main function.	Sales Customer service Tradespersons Home healthcare Maintenance personnel Employees assigned a vehicle Family members allowed to drive a company vehicle	Pre-employment and annually thereafter	Certificates of insurance Insurance limits of at least \$100K/\$300K/\$50K Organization listed as an additional insured Annual vehicle inspection Monthly inspection/maintenance reports Safe driving rules/policies Periodic defensive driving training
<b>OCCASIONAL DRIVERS</b>  Persons who drive less than once a month.	Any employee or volunteer	Pre-employment and annually thereafter	Certificates of insurance Insurance limits of at least \$100K/\$300K/\$50K Safe driving rules/policies
<b>INFREQUENT DRIVERS</b>  Persons who are generally not expected to drive.	Any employee or volunteer Staff attending off-site seminars and conferences	Verify valid driver's license in possession	Verify insurance on vehicle Safe driving rules/policies

**THIS IS A SAMPLE. YOU SHOULD CUSTOMIZE CONTROLS TO MEET YOUR ORGANIZATION'S NEEDS AND EXPOSURES.**

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## Non-owned vehicle controls

### Sample Non-Owned Vehicle Authorization and Operation Policy

#### Sample Company Inc.

**Subject: Non-Owned Vehicle Authorization and Operation**

#### Purpose/Rational:

Our business relies on the use of vehicles not owned by the company (non-owned vehicles). Examples of non-owned vehicles include rented and leased vehicles and employee-owned vehicles used for business purposes. When these vehicles are used to transport clients, other business partners, or used for business needs in general, it is in the company's interest to ensure that these vehicles are being operated safely.

The purpose of this policy is to communicate company rules on the use of non-owned vehicles. Supervisory personnel are to discuss and review these rules with all authorized non-owned vehicle drivers. All company employees who operate non-owned vehicles must review and acknowledge receipt of this policy prior to operating a non-owned vehicle on behalf of the business.

#### Non-Owned Vehicle Authorization and Operation Policies

1. Personnel operating non-owned vehicles on behalf of the company are subject to the company's driver evaluation and qualification procedures. This includes meeting standards to ensure that all drivers have valid driver's licenses and acceptable motor vehicle records (MVR). Motor vehicle records will be reviewed prior to being granted authorization to operate a non-owned vehicle and annually thereafter.
2. Non-owned vehicle drivers must complete all driver-related orientation and training as is required for company drivers.
3. Drivers must provide proof of ownership/registration prior to being approved to operate the vehicle for business.
4. The driver must provide and maintain current proof of insurance. Insurance policy coverage must meet these minimum limits:  
 Liability: \$ \_\_\_\_\_ per person, \$ \_\_\_\_\_ CSL, Med. Pay: \$ \_\_\_\_\_  
 Uninsured and Underinsured Motorist Coverage (where required)
5. Non-owned vehicles must be kept in safe operating condition at all times. In states with mandated safety inspections, the driver must provide supervisor proof of passed safety inspection. Proof of valid license, registration and insurance policy information must be provided to annually.
6. Non-owned vehicles must be operated in accordance with the rules and procedures applicable to company-owned vehicles. Supervisors must verify that all non-owned vehicle drivers have reviewed and understand company vehicle safety rules.
7. All applicable vehicle laws and regulations must be followed, including obeying speed limits, wearing seat belts, adhering to the company's prohibition on using mobile technology while driving, etc.
8. All fines, defense costs and other legal penalties arising out of ticketed offenses are the responsibility of the driver.

#### Acknowledgement

I have received, read and understand these rules. For the safety and well being of myself, my clients and the general public, I agree to adhere to these rules at all times. I also understand that failure to follow these policies will result in disciplinary measures up to and including dismissal.

**(Employee Signature)**

**(Date)**