

RiskTopics

Personal use of company-provided vehicles October 2017

In many businesses, employees may have the opportunity to use a company-provided vehicle. Setting clear expectations concerning whether the vehicle can also be used for personal use may reduce unexpected liability for your organization.

Introduction

Establishing and enforcing a policy concerning the personal use of company vehicles is a key part of fleet risk management. An organization should determine what level of personal use is within their risk appetite knowing that the company may incur liability if a company-provided vehicle is involved in a collision – even if it is being used for the personal benefit of the employee at the time.

Discussion

The personal use policy should define both the extent of personal use allowed and who is permitted to use the vehicle. For example, consider a technician required to take a service vehicle home so they can respond to emergency calls after hours. A reasonable policy might permit limited travel off the normal work-to-home route, but prohibit any other personal use or drivers. Compare that to a traveling sales representative assigned a company car but authorized to use it for routine personal travel. A reasonable policy may be to allow personal use within 200 miles of home and allow the spouse or domestic partner to operate the vehicle only after review and acknowledgment that a motor vehicle record criteria is met.

Consider whether your organization can accept the potential liability of an employee who may use a company-vehicle to pull their boat to the lake on the weekend or uses their company vehicle to transport the members of their child's soccer team to the game? Is the employee permitted to have an alcoholic beverage and then drive the vehicle as long as they are not legally impaired? Thinking about your answers to these questions may help you to set appropriate policy controls.

In addition, with the ever changing landscape of technology, it is important to consider various services such as ridesharing and package/food delivery that employees may be tempted to provide using a company owned vehicle (either on their own or company time!) The rise of these smartphone-enabled activities creates a

realistic possibility that some employees might recognize the opportunity to make extra money without considering the liability risk to your company. This practice should be specifically addressed and prohibited with company-provided vehicles. Risk Engineering at Zurich developed a separate RiskTopic addressing this particular area of exposure for both company-provided vehicles and employee-owned vehicles.

Guidance

No matter what level of personal use risk your company is willing to accept, the policy should be formalized and clearly communicated to anyone using a company-provided vehicle. Once established, the policy should be enforced since failure to do so could be construed in a court as tacit approval of behaviors and preclude a defense relying on the written policy.

The Internal Revenue Service (IRS) has established certain rules and regulations associated with the tax implications of personal use of company vehicles. Risk managers should consult with the human resources department or tax professionals to ensure consistency in company policy and compliance with regulations.

Consider these two sample policies that provide for varying degrees of authorized personal use and develop a policy that meets the needs of your organization. As with any employee policy, it is a recommended best practice to have the Personal Use policy signed/acknowledged by the employee with records kept on file.

Sample Personal Use policy (highly-restricted use)

To all employees using company vehicles:

Company vehicles are provided exclusively for business purposes. Those employees authorized or required to take a vehicle home with them are limited to the most direct route between home and the business-related destination, with an allowance of 10 miles off-route to accommodate personal use during their normal commute. Any other non-business use is expressly forbidden.

At no time may an employee use a company vehicle for activities such as ridesharing, product delivery or other related services. Only company employees are authorized to drive or ride in the vehicle. Unauthorized use may be considered as theft, and appropriate legal action may be taken, including allocation of liability to an unauthorized driver should any arise.

Sample Personal Use policy (company car with limited personal use)

Personal use of assigned company vehicles will be limited to travel within a ____ mile radius of the employee's residence. Special permission will be required for personal trips farther than a ____mile radius, and must be obtained in writing from _____. The employee, and if properly authorized, the employee's spouse /domestic partner, are the only authorized drivers of the company vehicle.

It is expected that the operator of the company vehicle will comply with all laws and regulations as well as respect his/her driving use privilege by driving safely and taking proper care of the vehicle assigned to him/her.

Any personal use of a company vehicle, except as specified above, will be considered unauthorized use and is absolutely prohibited. Including, but not limited to: ridesharing, product delivery and other related services.

I have read the above and agree to abide by this Policy Statement in the operation of the company vehicle entrusted to me.

Conclusion

Whenever a company provides a vehicle, employees should be aware that it is foremost a business tool and personal use of that vehicle may be limited to reduce risks for the organization. Companies should clearly address who is permitted to drive the vehicle and what level of non-business use will be allowed.

References

ANSI/ASSE Z15.1 – 2012 Safe Practices for Motor Vehicle Operations. American Society of Safety Engineers. 20 August 2012.

RiskTopic: Share the ride, not the risk – ridesharing services. The Zurich Services Corporation. December 2015.

RiskTopic: Controlling non-owned vehicle exposures. The Zurich Services Corporation. March 2016.

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