



NEGLIGENT ENTRUSTMENT

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Your organization is responsible for making significant efforts to ensure public safety when you authorize anyone to drive one of your vehicles. Among the efforts you must make is verifying the driving qualifications of everyone operating a company-owned car. Then, you are responsible for monitoring those drivers to guarantee that no new developments disqualify a formerly authorized driver. These are your legal responsibilities. Without the proper verification and monitoring procedures in place, you may be exposing your organization to significant liabilities.

You can be deemed guilty of permitting an incompetent person to operate your vehicle (Negligent Entrustment) if the following is true:

- Your company carelessly permitted (entrusted) someone to use an instrument that could cause harm. (Automobiles are assumed to be dangerous.)
- The incompetence of the person in a position of trust was the proximate (most immediate or direct) cause of damage, injury or death.

"KNOWING OR HAVING REASON TO KNOW"

Negligent Entrustment arises when you permit a driver to use a vehicle knowing, or having the reason to know, that the use of a vehicle by that driver creates a risk of harm to others. Central in this is to the issue of one party empowering another to drive. Of course this is occurring whenever anyone uses a company car, so most legal actions involving negligent entrustment involve commercial automobiles.

The impact of Negligent Entrustment is significant and is becoming even more so:

- Negligent Entrustment claims are becoming more common in the U.S.
- Punitive damages are more frequently being included in judgments.

In order for your organization to be held responsible for Negligent Entrustment a court must determine the following:

- Your driver must be ruled incompetent.
- It has to be shown that your organization knew or should have known of his or her incompetence.



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- You must have entrusted the vehicle to the driver (with permission, as part of his or her job).
- The driver's negligence caused the accident.

The driver will be judged to be incompetent if ANY of the following are true:

- Your driver was not qualified to drive a car safely at the time he or she was hired.
- Your driver was disqualified under Department of Transportation regulations.
- Your driver has a history of accidents and violations.
- Your driver lacks skills for the type of vehicle or driving involved.

Your organization is responsible for screening drivers who are given a vehicle to use. To protect yourself and your company, processes and standards must be in place to review MVRs and to monitor driver qualifications. Maintaining up-to-date driver records and responding to them in a timely way is both appropriate and your best defense if something goes wrong with one of your drivers behind the wheel.

REDUCING YOUR EXPOSURE

Your company will reduce its liability and exposure to Negligent Entrustment claims if you:

- Have a formal, consistent driver safety policy.
- Evaluate and review all new hires.
- Systematize and formalize driver review and training.
- Enforce consistent disciplinary standards.
- Deploy post-accident reviews.
- Respond responsibly and consistently to driver developments.

If your company operates its own vehicles, it is critical that appropriate management practices be in place to ensure their safe operation. The Driver Safety Policy incorporated in eFleetManager is an excellent place to start. The many automatic, consistent and timely functions of the program, along with thorough and detailed archiving of safety efforts, can help any organization reduce Negligent Entrustment and defend against it.

