



Negligent entrustment

As a business owner, you ask your employees to carry out their work duties diligently and responsibly, including when driving on your company's behalf. But what if you know that one of your employees is unfit to drive — or should know based on their driving record — and you allow them to drive on the job anyway? The answer: You could be subject to a negligent entrustment lawsuit in the event of an accident.

WHAT IS NEGLIGENT ENTRUSTMENT?

Negligent entrustment is a legal term defined by *Merriam-Webster* as “the entrusting of a dangerous article (such as a motor vehicle) to one who is reckless or too inexperienced or incompetent to use it safely.”

A company could be held liable for negligent entrustment if:

- It does not enforce its policies that mandate the review of motor vehicle records (MVRs) and the disqualification of employees who do not meet the established criteria for driving.
- An employee is driving with a suspended license and the company knows, or should have known, the license was suspended.
- It has been receiving telematics data indicating negligent or unsafe behavior by its drivers but has failed to take appropriate action.

For example, suppose a company does not properly screen its job candidates and hires an individual with a history of driving violations and infractions. Should that employee injure a third party while operating a vehicle on the company's behalf, regardless of ownership, the company could be held liable for negligent entrustment.

HOW TO REDUCE YOUR EXPOSURE TO NEGLIGENT ENTRUSTMENT

As part of a comprehensive fleet management program, we recommend the following:

- Document and verify your fleet management policies and procedures are being applied and enforced.
- Prior to hiring a new driver:
 - Confirm the person has a valid driver's license with appropriate endorsements for the vehicle(s) to be operated.
 - Obtain and review the driver's MVR noting violations and adverse rulings.
 - Consistently employ a structured decision-making process to determine a driver candidate's eligibility to drive.
- Obtain and evaluate all drivers' MVRs on at least an annual basis.
- Conduct driver safety training and performance monitoring on a scheduled cadence.

When you put an individual behind the wheel for work, it's important to have taken proactive steps to avoid negligent entrustment liability in the event of an accident. UFG Risk Control is here to assist you in developing a fleet management program that will protect your business from a negligent entrustment lawsuit. Call on us today.

Tip from UFG Risk Control:

While it was once common practice for business owners to request MVRs through their insurance agents, this practice may now be considered a violation of the Fair Credit Reporting Act (FCRA). At UFG Risk Control, we recommend that employers own this responsibility by implementing a process to obtain and review MVRs prior to hiring and regularly thereafter as part of an active fleet management program. The process should comply with all FCRA requirements, starting with properly notifying applicants and gaining written permission prior to ordering MVRs.

With advancements in data management, an MVR management service can be utilized to access driver MVRs, evaluate and help determine driver eligibility, and enable ongoing monitoring and alerts when a driver incurs a violation or experiences a change in license status.

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