

Don't Let Rental Cars Wreck Your Business Trips

This material is provided for informational purposes only. Before taking any action that could have legal or other important consequences, confer with a qualified professional who can provide guidance that considers your unique circumstances.

When you and your co-workers travel out of town on business, there is often a need to rent a car for transportation. For instance, suppose you need to meet face-to-face with a new client whose offices are two time zones away. Typically you'll fly to the locale and then rent a car at the airport. You then drive to your client's office for a meeting. Later, you drive the client across town to visit a potential jobsite. Afterwards, you drop the client back at her office, drive to your hotel to get ready for dinner, and then meet your client and the contractor at a restaurant. You then drive back to your hotel for the night and rise early for another meeting at the client's office before making a return trip to the airport.

Sure, you have the option of taking public transportation or hiring taxis or ride-share services such as Uber or Lyft. But these options don't always give you the degree of control you need to conduct out-of-town business on a tight schedule.

Truly, a rental car is likely the best method of transportation to achieve your business objectives in the above scenario. However, uninsured liabilities loom if you don't take the proper steps when you or any other company employees rent a car. If you are involved in a traffic accident you may find yourself liable for:

- Physical damage to the rental car
- Physical damage to a third-party vehicle, or vehicles, involved in the accident
- Bodily injuries to third parties caused by the accident
- "Loss of use" exposure to the rental company for the time the damaged car is out of service.

Making Sure You Are Insured

When driving rental cars on company business you have options for getting needed insurance to cover potential liabilities. Which options are best for you will depend upon various factors. Let's look at your insurance choices.

A Business Auto Policy (BAP)

Your company's business auto policy (also called a commercial auto policy) likely has coverage for "hired autos," which include rental cars. This type of coverage applies to damages or injuries suffered by third parties in an auto accident that resulted from a company employee's negligent operation of a rental car while on company business. A BAP may (or may not) also cover damages to the rental car and the loss of business to the car rental agency while the car is being repaired.

Check your BAP to determine the type and level of coverage provided when driving a rental car on company business as well as any deductibles and exclusions that apply. Note that hired auto coverages are not always automatically included on a BAP. You may have to request such coverages and they may not be available on some policies.

Typical BAP coverage may be endorsed to include:

Hired Auto Liability: A typical policy for a small design firm would include \$1 million for a combined single limit for bodily injury and property damage.

- Hired auto physical damage: Likely limits would be \$50,000 to \$100,000 if this coverage is provided.
- Hired auto loss of use: Typical limits would likely be around \$65 per day up to \$750 per accident.
- What if your company does not have a BAP? Your business owner policy (BOP) or general liability (GL) policy may have by endorsement hired/non-owned auto liability coverage, but likely no physical damage coverage. Check your BOP and GL policies to determine your actual coverages, limits and deductibles. Again, you may need to specifically request such hired/non-owned auto coverage.

Rental Car Company Insurance

Rental car companies typically sell their own type of insurance to cover your potential liabilities due to an accident. Coverage may look like this:

- Liability: Available for purchase, typically up to \$1 million.
- Hired auto physical damage: Covered through a damage waiver.
- Hired auto loss of use: Also covered through a damage waiver.

The unique benefit of insurance offered by rental car companies is the damage waiver, which typically costs \$10 to \$30 per day. Essentially, the damage waiver removes all of your liability for loss of or damage to the rental car, the loss of use of the car that follows and, likely, any "diminished value" liability for the reduced resale value of the car due to the accident. A rental car driver who is in an accident can essentially walk away from the scene with no financial responsibility to the rental car company. The driver also avoids the hassle of having to file claims paperwork with the rental company.

Keep in mind, however, that there may be driving restrictions (e.g., no off-road use or excessive speed). If terms of service are violated, the waiver could be nullified. Also, the damage waiver does not include liability coverage for damages caused to others or loss of stolen property from the vehicle. Your BAP insurance will likely apply to those third-party damages and claims, unless you also purchase additional liability coverage through the rental car company.

Credit Card Coverage

Your credit card, whether a personal or company card, may include rental car insurance. Limits of coverage can vary widely but \$75,000 to \$100,000 limits are fairly common.

Note, however, that credit card coverage likely has substantial restrictions. First of all, the rental car must usually be reserved and paid for on the same credit card. Also, most (but not all) credit card rental car insurance provides "secondary" coverage. That is, any other insurance in place -- BAP, GL or BOP endorsement, rental car insurance, etc. -- must be exhausted before the credit card coverage applies. Also, you must typically decline the damage waiver offered by the rental car company in order for the credit card coverage to be activated. Check for any such limitations of coverage on any credit card used to reserve and pay for rental cars for company business.

Driving North of the Border

Canada has a few different wrinkles when it comes to insuring rental cars. In fact, each province may have its own unique regulations that apply to liabilities related to rental vehicles.

Many rental car liabilities can be covered through non-owned auto endorsements and legal liability coverages that apply to damages to hired vehicles. These may be available through endorsements to your commercial general liability policy.

Car rental agreements themselves can be different in Canada as well. The major car rental companies may offer blanket policies that cover damage to the rental car, but significant deductibles may apply. Deductible insurance may also be available. Check with a Canadian insurance broker to make sure you have appropriate coverage when reserving a rental car north of the border.

Best Option?

Having an accident while driving a rental car is never a pretty picture. So what is your best option to avoid the expenses and headaches of rental car liabilities? Develop a company policy regarding the use of rental cars and require all employees to follow it. Work with us to investigate your current insurance coverages and identify any gaps that may put your company and your employees at risk. A combination of your BAP, company credit card coverage and the loss damage waiver from the rental company may be your best option.

The details of your rental car policy will depend on your unique needs and circumstance, but as general rules:

1. Avoid renting cars whenever possible. You probably don't need to use rental cars when traveling around your own city or town. Company and personal cars, taxis or ride sharing vehicles should do. And when you travel out of town and your only need for transportation is to make a single trip from an airport, to your business destination and back to the airport, a taxi or ride-share vehicle will likely suffice.
2. Reserve and pay for rental cars using company credit cards. The use of employee personal cards for reservations or payments may jeopardize coverage under your BAP and cause administrative headaches for the company and the employee.
3. Purchase the damage waiver when using a rental car. The peace of mind and full protection from liabilities to the rental car company due to an accident is well worth the \$25 per day or so it costs for the waiver. You might also be able to negotiate a discount on waivers or a complete corporate rental contract specifying added coverages by doing all of your business with the same rental car company.
4. Set limits on employee use of the rental car. Prohibit them from driving rental cars for after-work activities such as golf excursions, dining/drinking, sight-seeing, etc.

Let us know if we can be of assistance in helping you prepare a car rental policy and putting together an insurance package that helps you avoid coverage gaps.



oswald[®]

Can We Be of Assistance?

We may be able to help you by providing referrals to consultants, and by providing guidance relative to insurance issues, and even to certain preventives, from construction observation through the development and application of sound human resources management policies and procedures. Please call on us for assistance. We're a member of the Professional Liability Agents Network (PLAN).

We're here to help.

*Paula Selvaggio
Senior Vice President, Industry Segment Leader
Architects and Engineers*

*1-855-4OSWALD
pselvaggio@oswaldcompanies.com*

www.oswaldcompanies.com