



Risk Management Services

Motor Vehicle Record (MVR) Evaluation

Companies may be responsible for the negligent or illegal conduct of an employee. The law requires a “due diligence” standard, which means that an employer has a duty to protect others from employees that the employer knew or should have known would pose a risk of harm to others. Therefore, when the company hires an employee, reasonable steps should be taken to check references and other background information – especially the motor vehicle record (MVR) when driving is one of the employee’s responsibilities.

Having a license may make it legal for an employee to drive, but it does not mean he or she is suitable to represent your organization behind the wheel. An applicant’s driving history is one of the best clues to his or her future performance as a safe, dependable driver. By making MVR reviews part of the yearly evaluation for all drivers, your organization can be certain of maintaining high performance standards.

While some drivers use company vehicles, others use their own vehicles on company business. These drivers should also have their driving history evaluated. Additionally, when an employee is promoted or transferred to a position that may require operating a company vehicle, the appropriate department head or designee should review a current MVR and driver’s license of that employee.

MVRs provide a substantial amount of information about the employee or potential hire, including:

- any past driving violations, convictions, and accidents;
- how long the person has been driving, which is important because inexperienced drivers tend to have more accidents; and
- typically, three years of driving records, which is helpful because driving history can be a good predictor of future behavior.

When selecting prospective employees with duties of operating a company vehicle, the following should be considered:

- He or she should have a valid driver’s license for the appropriate class of vehicle being operated.
- All prospects who would operate company vehicles should report any accidents and/or traffic violations, other than parking violations, within the last 30 days.
- Any prospects whose license has been cancelled, revoked, suspended, or expired should not operate a company vehicle.

For drivers over age 65, a physician statement should be obtained indicating that the driver is not otherwise limited in capacity.

Recommended Acceptability Criteria

Individuals who meet the following criteria would be unacceptable to drive a company vehicle or drive a personal vehicle on company business:

- **One or more Type A violations including:**

- Distracted driving (including cell phone, texting, or talking)
- DWI/DUI/OUI/OWI – Drugs or alcohol
- Refusing to take a substance test
- Driving with an open container (alcohol)
- Manslaughter or negligent homicide using a motor vehicle
- Driving with a suspended or revoked license
- Operating a motor vehicle for the commission of a felony
- Aggravated assault with a motor vehicle
- Permitting an unlicensed person to drive
- Reckless driving
- Fleeing or evading police or a roadblock
- Resisting arrest
- Speed contest (racing)
- Hit and run (bodily injury or property damage)
- Failure to report an accident
- Illegal passing of a school bus
- Other violations considered serious

- **Three or more Type B violations in the past three years, including:**

- Having a license suspended in the past related to moving violations, which includes:
 - Speeding
 - Failure to yield
 - Improper lane change
 - Careless driving
 - Failure to obey traffic signal or sign
 - At-fault accidents

- **Other unacceptable criteria:**

- Drivers under 21 years of age.
- Drivers who have been licensed for less than three years, regardless of age.
- Drivers who have only an international or foreign driver's license.
- Drivers who are not licensed in the state where he or she resides within the time required by the state.

This applies to those states that require drivers to be re-licensed within a certain time period.

Important Reminders Relating to MVRs:

1. Company management is responsible for establishing and enforcing the driver-selection criteria. Consult your attorney to establish that criteria.
2. The Fair Credit Reporting Act requires employers to take certain steps before obtaining and using MVRs for employment decisions. The employer must get the candidate's written authorization to request his or her MVR and other records, as well as provide the candidate with written notice of intent to do so. The employer must also inform the candidate of the possible consequences of having an unfavorable MVR.
3. For drivers who have been involved in a preventable accident, MVRs should be reviewed at a minimum of every six months.
4. Drivers who become "unacceptable" should be relieved from driving responsibilities until the MVR reflects an acceptable status.
5. Each year, one moving violation or at-fault accident may be offset with a state-approved defensive driving course approved for ticket dismissal. The cost of the course is paid by the employee and must be taken on the employee's own time.
6. Before formal implementation, current drivers should be familiarized with the content and objectives of your MVR Evaluation Program. Drivers should be advised of the specific consequences of falling into marginal or unacceptable review categories.

Federal Motor Carrier Safety Regulations require the following:

- Employers must check commercial drivers' MVRs within 30 days after hiring.
- MVRs that cover each commercial driver's preceding three years from each state in which he or she held a license.
- Commercial drivers must submit a written report to their employer within 30 days of a traffic violation conviction, along with a Certification of Violation form.
- Employers must obtain MVRs annually, certify the information, and determine that each commercial driver meets the minimum requirements for safe driving or are disqualified.

A certification of each record retained must be in each driver's qualification file, whether the record has convictions or not.

Developing and implementing a driver-selection and performance policy can help to ensure consistent decisions about who may drive on the job. This will help to minimize the frequency and cost of vehicle-related injuries and other losses. Contact your local Risk Management Representative to assist in the development of a comprehensive MVR Evaluation Program or for other loss-prevention tools, which can limit fleet exposure and limit company assets.

The material contained in this article is for informational purposes only and is not for purposes of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem.



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