

RISK MANAGEMENT DIVISION BULLETIN

(intended only for the use of entities insured by Risk Management)

THE ISSUE: USE OF STATE-OWNED VEHICLES BY NON-STATE EMPLOYEES.

For many reasons, State entities use non state employees such as independent contractors, interns, volunteers and other similar persons to conduct State business. For the purposes of this bulletin, a “non state employee” includes any person or employee not assigned to a State position. The Risk Management Division (RMD) routinely receives requests from State entities asking permission for such persons to operate State-owned vehicles while on State business. Although this is one way for State entities to keep costs down and make full use of State resources, this practice does raise certain concerns.

THE INSURANCE CONCERNS.

The liability of State employees operating vehicles owned by the State, while in the course and scope of their employment, is generally insured through RMD. Non state employees are generally not covered by this RMD insurance program. This can create a large uninsured exposure for any State entity permitting a non state employee to use a State-owned vehicle.

RISK MANAGEMENT DIVISION’S POSITION.

RMD discourages the practice of allowing non state employees to drive State-owned vehicles. This is in part because the RMD vehicle liability insurance program does not automatically extend coverage to non state employees. If a State entity permits a non state employee to use a State-owned vehicle without RMD approval, the entity could find itself paying for any claim brought in connection with the use of that State-owned vehicle. Notwithstanding, it is recognized that some vehicle use by non state employees is perhaps inevitable and may result in more efficient use of State resources. The following criteria have been developed to enable RMD to insure such use by a non state employee.

CRITERIA.

Non state employees (applicant(s)) are not insured by RMD to operate vehicles registered to the State of Maine unless all of the following criteria are met:

1. The applicant is at least 18 years of age; and
2. The use of the vehicle is necessarily related to the fulfillment of the mission of that State of Maine governmental entity permitting such use of the vehicle; and
3. Permission is granted by an authorized official within the State of Maine governmental entity to whom the vehicle is registered¹; and
4. The applicant’s driver’s license is recognized as active and valid² in the State of Maine and is applicable to the vehicle to be operated; and
5. The applicant has been a licensed driver for at least one year prior to the application date; and
6. A Vehicle Use Agreement form (VUA) is completed and signed by the applicant and by an authorized State entity official, and is approved by RMD; and
7. In the five years prior to the application date the applicant has not:
 - a) provided false or misleading information to RMD on a VUA, or
 - b) been convicted or adjudicated of any class of crime as described in Title 29-A, or
 - c) been convicted or adjudicated two or more times of traffic infractions as defined in Title 29-A that involved the applicant’s operation of a vehicle (e.g., speeding), or

¹ For the purposes of the issues described here, vehicles generally available to State of Maine entities, such as those available from Central Fleet Management, may be treated as though they are the entity’s vehicles.

² RMD reserves the right to consider as not valid any licenses from countries other than the US and Canada.

- d) been the operator of a vehicle or vehicles involved in two or more reportable accidents as defined in Title 29-A that, in RMD's view, appeared to have been preventable by the applicant, or
- e) been the operator of a vehicle or vehicles involved in either (i) four or more reportable accidents regardless of their preventability or (ii) two or more reportable accidents regardless of their preventability and either one or more traffic infractions as described in item 7(c) or one or more reportable, preventable accidents as described in 7(d).

In addition, RMD reserves the right to consider traffic infractions described in Title 29-A that did not directly involve the applicant's operation of a vehicle (e.g., failure to register a vehicle) unless such infractions are the only ones being considered. If the applicant shows proof of completion of a Department of Public Safety Maine Driving Dynamics class within the two years prior to the application date, RMD may in its discretion disregard one of the kinds of infractions or accidents listed in item 7 above that occurred prior to the completion of the class.

RMD will not offer to insure anyone who fails to meet criteria items 1 through 5. Otherwise, applicants will be evaluated for insurability by RMD on a case-by-case basis. RMD reserves the right to refuse insurance protection when RMD determines that the risks involved are prejudicial to the State's vehicle liability insurance program, as permitted by 5 M.R.S. § 1728-A(3). Every effort will be made by RMD to consider these applications promptly and to communicate all decisions promptly.

The professional judgment of RMD staff shall be final as to whether the applicant has satisfied the above criteria and whether or not RMD agrees to insure any applicant in the RMD vehicle liability insurance program. A non-State employee whose VUA is approved by RMD, will be insured by RMD subject to the limits, terms and conditions set forth in the RMD vehicle liability insurance program as long as the applicant driver operates the vehicle in compliance with the VUA and the rules and regulations of the State entity overseeing the applicant. If the applicant makes any false statements on the VUA or uses the State-owned vehicle other than as permitted by the VUA, RMD in its discretion may decide not to insure that applicant's use of a State-owned vehicle and decline to defend and indemnify the applicant in the event of a claim against him or her.

VEHICLE USE AGREEMENT FORM. The VUA form may be duplicated as necessary. The form is to be read, understood, and signed by the applicant. The authorizing entity should take the time to explain to the driver the form, permitted and non-permitted use, the seat belt work rule, and the procedures to be followed in case of a vehicle accident. The State official authorizing the use is to then sign the form, print the official's name and entity information, and immediately forward the completed form to RMD.

Please note: RMD is not able to check out-of-state motor vehicle records (MVR). Therefore, any applicant signing a VUA form who has an out-of-state license MUST (at his or her or the entity's expense) provide RMD with a current MVR from that state before RMD can continue the approval process. RMD will continue to check Maine MVRs at no expense to the applicant or the entity.

If there are any questions regarding this issue, the above criteria, or this form, please contact RMD.

Risk Management Division
85 State House Station, Augusta, Maine 04333-0085
Telephone (207) 287-3351 Toll-free 1-800-525-1252 FAX (207) 287-4008

Initial Issue Date May 1999; Revised May 2001; Revised February 2012