



# EMPLOYER LIABILITY FOR EMPLOYEES' DRIVING

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## Employer Liability for Employees' Driving

The common law legal theory of vicarious liability existed long before the invention of the first motor vehicle. Applying the concept of respondeat superior, courts have held that an employer is responsible for the wrongful acts or commissions of their employees during the scope of their employment. For an act to be considered within the scope of employment, the employee must have been acting for the employer's benefit and the work must be of the kind the employee is hired to perform. The work must also, at least in part, serve the purpose of the employer.

## Motor Vehicles and Vicarious Liability

When motor vehicles use became common, courts merely extended the theory to an employee's use of a company vehicle, finding that an employer is liable for the tortious acts of its employees. Allowing or requiring employees to use their own personal vehicle can also put the employer at risk for vicarious liability.


The scope of the vicarious liability involving company vehicles may appear fairly straightforward, however, applying it to a specific factual circumstance can produce differing results.



# Companies Held Liable

For example, courts have held that an employer's failure to determine if an employee had a valid driver's license can create liability for the results of a traffic crash. Failing to run a record check to determine if an employee has a prior conviction for impaired driving, can also create grounds for liability. And an employee who drives with a suspended license is sufficient for the employer to be liable in the event of a crash. On the other hand, allowing an employee who has more than one previous traffic citation to use a company vehicle is not, in and of itself, sufficient to create liability.

An employer can also be held liable if an employee uses a company vehicle in an unauthorized way. In one case, a bus driver was allowed to drive her bus to and from work but was told not to use it for personal business. The court held the company was liable for the employee's crash, while on personal business, as the restriction was not generally enforced. In another case, an employee was given the keys to a company vehicle, but told only to use it only for warmth and to store tools. The court held that the employee's operation of the company truck was foreseeable and therefore the company could be found to be liable for damages that arose after the employee drove the vehicle.



*« An employer can also be held liable if an employee uses a company vehicle in an unauthorized way.»*

# Limitations to Vicarious Liability

There is a limitation to vicarious liability for company vehicles known in some states as the “home travel” rule. This exception provides that an employee’s use of a company vehicle to and from their residence is not generally within the worker’s scope of employment. Therefore, an employer might avoid liability for crashes that occur during the employee’s commute.

The “home travel” defense can be abrogated if the employer requires the employee’s use of the vehicle. Courts have held that when an employee is required to use their vehicle for work, the worker is within the scope of employment while operating that vehicle to and from work. Even if the employee deviates in a minor way from the route home the employer can still be liable. It is only when the deviation is significant, such as driving to an entirely different town, that the “home travel” rule is rescinded.

*« Companies should enforce their vehicle policies in a consistent manner for all employees. »*

Although the employer can be liable for the employee’s traffic crashes, the employee is jointly liable for any injury. However, when an employee is the only party to a suit, they may, if found to be liable, seek indemnification from the employer as long as the conduct was within the scope of their employment. On the other hand, if the employer is the only defendant, the company can attempt to avoid liability by claiming the employee’s operation of the vehicle was unauthorized. However, the employer generally cannot sue the employee for indemnification.

## Employers: Be Prepared

Vicarious liability places a heavy burden upon employers to ensure their employees obey traffic laws. When it is necessary for an employee to operate a vehicle, all restrictions on use of that vehicle should be in writing and acknowledged by the employee. There should be written policy and procedures manuals that clearly lay out what the rules are regarding company vehicles or driving within the scope of employment. Companies should enforce their vehicle policies in a consistent manner for all employees. A failure to do so puts the company’s finances at risk.

For More Information go to:  
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