

# RISK MANAGEMENT OFFICE

## VEHICLE USE GUIDE

October 1, 2003

### **Frequently Asked Question:**

#### **What happens if a State employee is involved in an automobile accident while "on the job"?**

All Workers Compensation injuries would be covered by the State self-insured workers compensation program administered by the Risk Management Office (RMO). If a State-owned vehicle is involved, the RMO would handle injuries to "non-employee" passengers pursuant to the current laws of the State of Colorado which is now a tort state. The RMO would also investigate Liability claims (damage to and/or injuries in the "other car") presented against either the State or the state employee. If a State employee is driving their own personal vehicle, their own insurance carrier would handle all Liability claims. The RMO does not cover physical damage to any personal vehicle driven by a State employee.

#### **Who Can Drive State Vehicles?**

C.R.S. 24-10-106 (a) public employees while in the course of employment.

C.R.S. 24-10-103 (1)(4)(a) a public employee is defined as a public entity employee or **AUTHORIZED VOLUNTEER**. An authorized volunteer is defined as ... a person who performs an act for the **BENEFIT**, at the **REQUEST** and subject to the **CONTROL** of the public entity. When an authorized volunteer drives a state vehicle, liability coverage attaches to that driver, however, workers' compensation does not apply, and the driver is responsible for his or her own medical payments.

Clubs and Student Government Operations

Whether a club or student government driver is an **AUTHORIZED VOLUNTEER**, may turn on management decisions regarding vehicle use. There are no statutory citations on this subject.

#### **General Disclaimer**

The RMO cannot determine in advance if situations involving vehicle use fall within the confines of State law, fiscal rules, department policy, program contract provisions, or insurance policies. Each claim is evaluated on its own merit, and all accident facts (including vehicle use) are considered. As such, agency permission for groups or individuals to drive or occupy State vehicles does not guarantee that the RMO can ensure liability protection.

#### **Who can occupy State Vehicles?**

The RMO endorses the Fleet Management Rule that State vehicles are to be used for official State business only (not personal errands, or transporting family members). Risk Management recommends that only state employees should occupy state vehicles. Only state employees are protected by workers' compensation while on state business. Other occupants are not covered under state insurance coverage with the exception of a potential liability claim against an at fault state driver while operating the vehicle in which the occupant is injured. Injured parties who are not covered by workers' compensation are responsible for their own medical payments from a resulting accident. It is up to each department head as to who may occupy a state vehicle. Risk Management can only make recommendations in this area.

### **Personal Vehicles**

Colorado insurance law requires that all vehicles be insured for liability, and that coverage is primary relative to the use of personal vehicles for business purposes. In addition, private insurance carriers may require notification of potential personal vehicle business use, plus the payment of an additional premium. Also, employees who drive their personal vehicles on State business should ideally obtain liability coverage in a minimum amount equal to the Governmental Immunity Act liability limit (currently \$150,000/\$600,000). The RMO will not pay the cost of business use endorsements and/or increased liability premiums. Since the RMO will investigate liability claims presented against the State and the State employee only on an excess basis, accidents must be reported to the private insurance carrier for claims handling, and also to the RMO for monitoring. Workers compensation is the sole remedy for on-the-job injuries arising from vehicle use.

### **Out-of-state State Vehicle Operation**

State vehicles ARE covered (provided Risk Management self-insured liability protection) when driven out-of-state (but not in Mexico). Renting a car pursuant to the State Travel Program is an alternative; but is not necessary. The recent purchase by the RMO of an excess auto liability policy for these situations has dated previous recommendations. As always, the RMO will not become involved unless the vehicle is operated by a State employee (or "authorized volunteer" as defined at C.R.S. 24-10-103) while in the course of employment.

### **Rental Vehicles**

The renting or leasing of a motor vehicle is subject to the Central Services Travel Management Program and the use of an approved state credit card. If the rental or lease agreement does not include the use of an approved state credit card the rental/lease agreement should include the purchase (or inclusion via terms and conditions of the State Travel Program) of liability insurance. Colorado law may severely restrict attempts by the RMO to apply its protection to rented vehicles. Also, since the RMO is prohibited by law from defending non-work situations, any deviation from one's course of employment while operating a rented vehicle may place State employees and/or the State at risk if legal protection cannot be provided.

### **Federal Vehicles**

Liability claims arising out of a state employee's use of a federal vehicle will be the responsibility of the State. Physical damage (collision & comprehensive) claims will be the responsibility of the vehicle owner. Workers Compensation claims will be the responsibility of the injured person's employer. State/federal vehicle use agreements might include a clause similar to the following: "for purposes of this agreement and the Colorado Governmental Immunity Act, vehicles owned by the federal government shall be deemed to be leased by the State when operated by a State employee." There should be reciprocal wording from the federal side.

### **Physical Damage**

Collision coverage (or its premium cost) is not provided by the RMO for any vehicle, state-owned or otherwise. Fleet Management provides a physical damage program applicable to some state-owned vehicles. Questions on that coverage should be addressed to Fleet Management. In addition, the Central Services Travel Management Program provides for physical damage coverage on rented vehicles via their credit card program. If a vehicle is owned directly by a state agency, that agency is responsible for purchasing physical damage/comprehensive coverage through the state's insurance broker.