



## 12.40 Insurance Coverage and Related Requirements

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### 12.40.10

July 1, 2010

### Insurance programs for state drivers

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The following insurance programs relate to state drivers and vehicles driven on official state business:

#### 12.40.10.a

#### **Self-Insurance Liability Program (SILP) for auto liability claims.**

The Washington Self-Insurance Liability Program (SILP) is used to pay tort claim judgments and settlements arising from general liability and vehicle liability for which the state is found to be wholly or partially negligent.

The SILP provides coverage for all state agencies, boards, commissions, community colleges, and universities with the exception of the University of Washington and the Washington State Department of Transportation (WSDOT), Marine Division.

The Office of Financial Management (OFM), Risk Management Division:

1. Administers the SILP and authorizes all payments for third party injury and damage.
2. Maintains a centralized claims database system to track the status of all state agency general and auto liability claims.
3. Assigns vehicle accident claims to the WSDOT Risk Management Office or to the Office of the Attorney General, Torts Division.

The SILP provides auto liability coverage for state owned and rented vehicles driven on state business in the United States and Canada.

For more information, visit OFM's website at:

[www.ofm.wa.gov/rmd/default.asp](http://www.ofm.wa.gov/rmd/default.asp).

12.40.10.b

**Workers' compensation for job-related injuries and illnesses.**

The Department of Labor and Industries (L&I) administers a “no-fault” workers’ compensation program (Title 51 RCW, Industrial Insurance). The workers’ compensation program provides:

1. “Sole financial remedy” for state employees who sustain injuries (or death) as a result of accidents or occupational diseases that occur while “in the course of business” for the state.
2. Wage replacement, medical, and vocational benefits for permanent, temporary, seasonal and part-time employees in agencies, universities and colleges. It provides “medical only” benefits for volunteers.
3. Coordination with medical providers and the employing agency in adjudicating claim allowance, benefits, and return-to-work.
4. Coordination of third party recovery actions when applicable.

For more information about workers’ compensation or filing an “on-the-job” injury or illness claim, visit L&I’s website at:

<http://www.lni.wa.gov/claimsins/default.asp>.

**12.40.20**

July 1, 2010

**Insurance requirements and coverage for state drivers**

12.40.20.a

**State employees.**

12.40.20.a.(1)

**State employee drivers – state vehicles (agency owned or state motor pool).**

1. The agency of the state employee driver causing damage to a state vehicle is responsible for payment or replacement costs of the vehicle. No vehicle repair/replacement costs are covered by the Washington Self-Insurance Liability Program (SILP).
2. Repair/replacement costs of Department of General Administration (GA) State Motor Pool vehicles are also the responsibility of the vehicle operator’s agency, and are **not paid** from the SILP.

3. The Washington Department of Transportation (WSDOT) Risk Management Office will attempt to recover the cost of state vehicle damage caused by third parties. These financial recoveries are forwarded to the agency owning the vehicle.

12.40.20.a.(2)

**State employee drivers – privately owned vehicles (POVs).**

1. Authorized drivers of POVs used for official state business are **required** to comply with the state of Washington **mandatory liability insurance requirements** as defined in chapters 46.29 and 46.30 RCW.
2. A driver of a POV involved in an accident while on official state business is covered by his/her private insurance policy. This insurance policy is considered **“primary” for payment of all losses/recoveries arising from an accident while driving a POV.** The cost of insurance is considered to be covered by the state’s mileage reimbursement rate. **Note:** The state does not reimburse state drivers for insurance deductibles.
3. The SILP will act as an “excess policy” in the event limits of the private insurance policy are exhausted. Under certain circumstances, the state may assist in the defense and settlement of claims, including possible lawsuit defense, if warranted.

12.40.20.b

**All state drivers – commercially rented vehicles.**

12.40.20.b.(1)

**Rentals from the state contract vehicle rental company.**

In all cases, contract language specifically requires that state rental car drivers be authorized by the agency head or authorized designee to rent and operate all rental vehicles.

Liability and loss damage waiver (LDW) insurance coverage is generally provided under the base rate charged to state agencies that rent vehicles through the state’s vehicle rental contract administered by GA. (Insurance coverage is not covered under the base rate for some specialty vehicles rented from the contracted company.)

LDW coverage provided under the base rate includes:

1. Third party liability insurance coverage for payments made to other parties who sustain injury or property damage as a result of an accident caused by a state driver authorized to operate a rental vehicle.
2. Repair costs for the rental vehicle.

Review rental contract agreements for any restrictions (i.e., age, in the case of student drivers).

For current information on GA's rental vehicle contract, refer to GA's website at: <http://www.ga.wa.gov/travel/rentvehicles.htm>.

12.40.20.b.(2)

**Rentals from non-state contract vehicle rental companies.**

Depending on the current state of Washington corporate travel card agreement, LDW coverage may be procured for a rental vehicle. For this reason, it is recommended that non-state contract vehicle rentals be placed on the state of Washington corporate travel card to take advantage of possible vehicle insurance coverage.

Check the most current coverage terms for the state corporate credit card on GA's website at: <http://www.ga.wa.gov/Purchase/index.html>.

It is a business decision on the part of each agency to determine the need or advantage of purchasing LDW coverage when renting a vehicle that is not included under the state's rental contract. If liability coverage is not procured on a rental vehicle, the SILP can provide coverage for third party liability claims, but will NOT cover damage to the rental vehicle.

Agencies are responsible for all repair costs to a rental vehicle if LDW coverage is not acquired on the vehicle. The Office of the Attorney General may represent the state driver if a lawsuit was filed against the operator.

12.40.20.b.(3)

**Passenger van rentals from state/non-state contract vehicle rental companies.**

Refer to van use requirements in Subsection 12.60.10.g and van rental/lease restrictions in Subsection 12.60.10.h.

12.40.20.c **Contractors.**

12.40.20.c.(1) **Contractor drivers – state vehicles.**

The agency head or authorized designee must **authorize** contractors to use state vehicles for official state business. The agency head or authorized designee should formally document the approval.

Most Commercial Auto or Business Auto Liability insurance policies contain “Other Insurance” provisions in Section IV – Business Auto Conditions which provide that “For any covered “auto” you don’t own, the insurance provided by this Coverage Form is excess over any other collectible insurance.” In order to ensure auto coverage for all tiers for borrowed autos from the state, contractor/consultant agreement auto insurance provisions should provide for coverage as follows:

Business auto liability insurance written under ISO Form CA 00 01 10 01 or equivalent providing coverage for any “Auto” (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000) combined single limit each occurrence. If the CONTRACTOR/ CONSULTANT or any SUB-CONTRACTOR/SUB-CONSULTANT is to use borrowed “auto(s)” from the STATE, the first sentence of the “Other Insurance” provisions in SECTION IV.B.5a. of each of their respective auto insurance policies is to be amended by endorsement to read:

“a. For any covered “auto” you borrow from the State of Washington, this Coverage Form provides primary insurance, except when the primary cause of the accident is determined to be a defect of the borrowed auto.”

Provisions for liability insurance and industrial insurance must be included in agency contracts. Insurance provisions for personal service contracts are covered in Subsections 15.40.35 and 15.40.40, and for client service contracts in Subsections 16.20.35 and 16.20.40.

12.40.20.c.(2) **Contractor drivers – privately owned vehicles (POVs).**

In situations where contractors are required to use POVs in performance of their contracted duties, agencies are required to:

1. Include indemnification language in contractual agreements limiting the state's liability for the action of the contractor. The OFM Risk Management Division's contracts manual, titled *Contracts: Transferring and Financing Risk*, contains sample hold harmless and indemnification agreements and is available on OFM's website at: <http://www.ofm.wa.gov/rmd/risk/default.asp>.
2. Require the contractor to:
  - a. Name the state of Washington as an "additional insured" in their insurance policy.
  - b. Meet the state's legal requirements for auto insurance.
  - c. Provide Department of Labor and Industries (L&I) workers' compensation coverage for drivers, as applicable and/or as required by Title 51 RCW.

12.40.20.d      **Student drivers – state vehicles and privately owned vehicles (POVs).**

The agency head or authorized designee must **authorize** students to use state vehicles and POVs used on official state business. Prior authorization is generally a condition in the state's commercial rental contracts.

Rental contract language generally excludes drivers under the age of 25. Consult the appropriate rental contract agreement for policy restrictions and exclusions that may apply to student drivers using commercially rented vehicles on official state business.

L&I's employment standards restrict youths under the age of 18 from operating vehicles for business purposes. Refer to L&I's website at: <http://www.lni.wa.gov/WorkplaceRights/TeenWorkers/>.

12.40.20.e      **Volunteer drivers – state vehicles and privately owned vehicles (POVs).**

The agency head or authorized designee must **authorize** volunteers to use state vehicles and POVs for official state business. Prior authorization is generally a condition in the state's commercial rental contracts.

Agencies should contact L&I to inquire about workers' compensation insurance coverage for personal injuries of volunteers or other non-paid operators of motor vehicles used for official state business.