

EMERGENCY VEHICLE ACCIDENTS

Class A authorized emergency vehicles include vehicles operated by or under the control of city police departments, county sheriff departments, fire departments and ambulance districts. With exceptions, the operators of emergency vehicles are required to follow the general rules governing the operation of any motor vehicle.

Exceptions to the general rules of the road apply only when emergency vehicles are in pursuit of violators of the law or responding to a reported emergency involving a possible personal injury, death or damage to property. An emergency vehicle in those situations must be giving an audible signal by siren; or adequate warning by use of a flashing red or a combination of red and white lights.

Under these circumstances, the drivers of emergency vehicles may exceed the speed limit so long as the driver does not endanger life or property. Emergency vehicle drivers may also proceed through a red stop signal or stop sign, but only after slowing down as may be reasonably necessary for safe operation.

Upon the immediate approach of an emergency vehicle displaying visible flashing lights, the driver of every other vehicle must yield the right of way and drive to a position as close as possible to the right hand edge or curb of the roadway. However, this requirement does not relieve the operator of an emergency vehicle from driving with due regard for the safety of others.

Over the years, the NDIRF Claims Department has handled many claims involving emergency vehicles. The accidents fall into a similar pattern. Sirens are on and lights are flashing. The emergency vehicle is approaching an intersection controlled by a red traffic light. There is limited visibility for intersecting traffic. The driver of the emergency vehicle will slow down and proceed through the intersection because they do not see the other vehicle

approaching. The driver with the green light usually doesn't hear or see the emergency vehicle until just before the collision.

Often, serious injury results in these types of accidents. Attorneys representing injured persons usually bring a lawsuit against the public entity and the driver of the emergency vehicle. The injured party relies on the previously cited law to establish a duty on behalf of the emergency vehicle driver to proceed through a red light, without stopping, only when it is safe to do so. If they can prove the emergency vehicle driver drove through an intersection against a red light before it was safe, the plaintiff may recover damages.

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On occasion, a second emergency vehicle is involved in an accident. Sirens and lights are on. The private party driver hears the sirens, sees the first emergency vehicle and yields to it as it goes through the intersection. The driver then thinks it's safe to proceed, attempts to travel through the intersection and is struck by a second emergency vehicle following the first.

These accidents can easily be avoided. Make sure your emergency vehicle drivers are aware of their duty of care when exceeding the speed limit or traveling

through red signal lights or stop signs. It is ill advised to create a situation that may become worse than the emergency for which they are on the road in the first place. Further, if an emergency vehicle is involved in an accident, a delay will occur in responding to the initial reported emergency. While the private party driver may be partially at fault, the best policy is to avoid the accident by realizing other drivers often don't hear or see an emergency vehicle approaching. ■

RISK SERVICES

Employee Use of Personal Autos



The time has come to revisit the issue of employees or volunteers using their personal vehicles on your behalf. The question we are frequently asked is: Does the NDIRF auto coverage for our political subdivision members provide coverage for an employee or volunteer when they use their personal auto on the political subdivision's business? The answer is: **No coverage is afforded your employee** if the vehicle they are operating is owned by the employee or a member of his or her household. The next question generally is: Where do they get coverage? We feel the answer is the individual's personal automobile insurance policy.

If these questions are being asked, the assumption must be made that the employee or volunteer has talked to his insurance agent and that the agent or insurance company has advised there is no coverage while transporting clients when mileage is reimbursed. We believe this analysis of personal auto coverage is incorrect. This difference of opinion revolves around the interpretation of a personal auto policy exclusion that excludes coverage for either "transporting persons or property for a fee" or "while it is being used as a public or livery conveyance." Whichever wording is used, the intent of these or similar phrases is to exclude the use of a vehicle insured on a personal auto policy as a taxi cab, limousine, or a freight service. In other words, the vehicle is being used as a business vehicle in an attempt to make a profit. Being paid mileage by an employer is not "a fee" nor does it mean the vehicle is a "public or livery conveyance."

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RISK SERVICES

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Another exclusion that may be creating confusion is one that excludes liability for "using any vehicle while the named insured is employed or otherwise engaged in any business." This exclusion may, on its face, seem appropriate to a situation where an individual is paid mileage. However, the exclusion explicitly states it does not apply to private passenger autos, pickups, or vans.

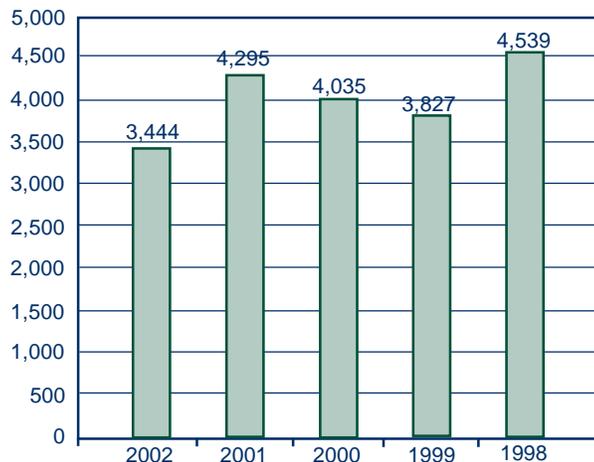
A major insurance company underwriting concern is receiving adequate premium for the exposure. Rating systems are typically based on either miles driven per year or one that distinguishes between pleasure use; drive to work; and business use. If a vehicle is rated pleasure use and an agent is asked if they have coverage for transporting clients, it is possible the agent may provide a negative response. This response is likely given because an adequate charge was not made for the exposure of transporting clients. Your employee should ask his agent to change the rating classification to a business use classification. If this is done there should be no problem with coverage applying under a personal auto policy.

Mileage is paid to reimburse your employee or volunteer for costs of operation of their vehicle. These costs include gas, wear and tear (maintenance), and insurance (the cost for a business use classification).

This issue has brought about a great amount of discussion and it is fair to say this article will not answer all questions on the subject. If you have additional questions on this subject, contact Ross Warner at WATS 1-800-421-1988 or local 224-1988. ■

FINANCIAL INSIGHTS

LOSSES PAID (in thousands)



This graph represents losses paid by NDIRF over the past 5 years, including payments made to adjusters and attorneys assisting in the claims settlement process. Since its inception in 1986, NDIRF's loss payments total \$44 million. ■

FROM THE CEO

The NDIRF has, over the past several years, developed a number of resource materials and provided them to Fund members for use in dealing with common risk management problems. For any number of reasons, including especially the regular influx of new officials into local government, we find that folks are frequently unaware that these resources are available to them right at home. With that in mind, here is a reminder of some of the tools you have at hand:

- NDIRF *GUIDE* (also available online at ndirf.com) -- information covering a broad range of common risk management issues, the *Guide* also includes an index of the NDIRF's video training library
- NDIRF Public Employers Handbook – employment practices resource manual
- *ND Employment Law Letter* – employment practices tips
- NDIRF Aquatics Manual – designed for members with swimming pools
- *Considering a Skate Park?* – guide for development of skate park facilities

In addition, the *Participant* itself is designed to provide material on topical risk management issues in a format that lends itself to easy filing in the Member Information binder provided to NDIRF members. We encourage you to take advantage of these resources and let us know if you have any suggestions regarding their content. ■

COMPUTER EQUIPMENT FOR SALE

The NDIRF has used computer equipment for sale on bids.

- Quantity **(1)** – IBM Network Color Printer (4303); 32MB Memory
- Quantity **(1)** – IBM Laserprinter 10
- Quantity **(3)** – Gateway Performance 700 PC; Pentium III 700 Mhz Processor; 128 MB RAM; CD ROM; 10 GB Hard Drive; no modem; Win98 Operating System; Cambridge speakers; MicroSoft Office 2000 Professional; 15" monitor
- Quantity **(1)** – Gateway Performance 700 PC; Pentium III 700 Mhz Processor; 128 MB RAM; CD ROM; 10 GB Hard Drive; 56K modem; Win98 Operating System; Cambridge speakers; MicroSoft Office 2000 Professional; 15" monitor
- Quantity **(1)** – Gateway Performance 700 PC; Pentium III 700 Mhz Processor; 128 MB RAM; CD ROM doesn't work; 10 GB Hard Drive; no modem; Win98 Operating System; Cambridge speakers; MicroSoft Office 2000 Professional; 17" Gateway monitor; on/off switch broken on PC
- Quantity **(1)** - Dell 7500 Notebook; Pentium III 500 Mhz Processor; 128 MB RAM; CD ROM (Read/Write); 6.0 GB Hard Drive; 56K Modem; Win98 Operating System; MicroSoft Office 2000 Professional; Docking station with mouse, keyboard
- Quantity **(1)** – COMPAQ Server; ProSignia 740; Pentium II 450 Mhz Processor; 256 MB RAM; CD ROM; 9.1 GB Hard Drive; 56K Modem; 12/24 DAT tape drive backup; Windows NT4 Operating System; NO Monitor
- Quantity **(1)** – COMPAQ Server; Proliant 1500; Pentium II 166 Mhz Processor, 32MB RAM; CD ROM; 4.3 GB Hard Drive; Windows NT4 Operating System, NO Monitor

The equipment was in good condition when taken out of service (except where mentioned) and is sold strictly on an "as-is" basis with no warranty expressed or implied. If you are interested in placing a bid on one or more of the pieces of equipment, please send your offer (including a return address and phone number) stating what you are bidding on in a sealed envelope to the following address.

NDIRF Computer Equipment Bid
 Attention: Vance Krebs
 PO Box 2258
 Bismarck, ND 58502-2258

Bid offers must be **received** before **MARCH 7, 2003**. Successful bidders will be notified by March 10th and the equipment must be picked up and paid for at the NDIRF office before **MARCH 21, 2003**.

Mark Your CALENDAR

March 2003

- 6: NDIRF Board of Directors Meeting
NDIRF offices, Bismarck
- April
- 29: NDLOC Regional Meeting, Hillsboro
- 30: NDLOC Regional Meeting, Casselton
- May
- 1: ND Association of Counties
Legislative Wrap-up
Seven Seas Inn, Mandan
- 1: NDLOC Regional Meeting, Linton
- 6: NDLOC Regional Meeting, Rolla
- 7: NDLOC Regional Meeting, Stanley
- 8: NDLOC Regional Meeting, New Salem
- 8: NDIRF Annual Meeting
Ramkota Inn, Bismarck

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