

September 2, 2005

## GUIDELINES ON USE AND OCCUPANCY OF STATE VEHICLES

Occasionally DHR management revisits policies and guidelines of the state and circulates a reminder to employees. Regardless of an employee's years of service with the state, we believe it is good practice for everyone to familiarize themselves with common guidelines, especially when it comes to areas that involve considerable risk issues for the state. Please review the following guidelines related to use of state vehicles. Additionally, please refer to the DPA policy on travel and use of state vehicles.

The Colorado Governmental Immunity Act (CRS 24-10-101 et seq.) contains a waiver of sovereign immunity for claims resulting from: "... the operation of a motor vehicle, owned or leased by such public entity, by a public employee while in the course of employment...". Risk Management is responsible for managing liability claims arising from the use of state vehicles and for management of state employee workers' compensation claims. Risk Management has no authority to say who can operate or occupy a state vehicle, it can only advise of the associated risks.

Fleet Management, which provides vehicles to state agencies, has promulgated specific rules regulating vehicle use. The rules are printed in a Vehicle Operator's Manual, which is kept in the glove compartment of all state vehicles. These rules state that a vehicle shall be used only for the conduct of official state business and that vehicles cannot be used for transporting family members, any other persons unrelated to the conduct of the state business or pets. Incidental use as necessitated by the conduct of official state business is allowed, however, personal use is not.

A state vehicle may be driven home in order to meet the demands of travel to meetings or out-lying business locations, so that travel would generally be considered official state business. Travel to tourist attractions, shopping malls, bars, or any other entertainment venue during the course business is not allowed unless it is a component of the trip. Should an accident occur during business travel, other types of incidental use would be considered on a case-by-case basis.

State employees and passengers who occupy state vehicles as a result of their business with the state are normally covered by their own workers' compensation insurance, if an injury occurs. If the driver is at fault in an accident while in a state-owned vehicle, other passengers who are not employed by any state agency have a right to present a claim against the state, exposing us to unanticipated financial loss. If an accident occurs during personal or unauthorized use of the vehicle, the state employee's personal automobile policy becomes primary and the employees must turn to his/her own medical insurance for treatment of injuries.

STATE OF COLORADO  
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.

### **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.

## Authorization for State Vehicle Use By Non-State Employees

Under certain circumstances Non-State Employees may be authorized to operate a state passenger vehicle for a specified period of time on a case-by-case basis. To authorize such use, the requesting agency must follow the following procedures:

1. Submit this form (Both Pages) filled out with:
  - a. Driver's First and Last Name.
  - b. Driver's Employer and Employers Address and Phone Number.
  - c. Requesting Agency Name, Person making the request and phone number.
  - d. Program for which the authorization is requested.
  - e. Vehicle (by License Plate) to be used by THIS Driver.
  - f. Date Range of Use.
  - g. Explanation of benefit to the state.
2. Driver or Requesting Agency must submit Proof of Liability Insurance with an additional insured endorsement for the State of Colorado, including a minimum limit of \$1,000,000 each accident combined single limit - subject to approval of Risk Management. The State of Colorado will not provide this coverage per CRS 24-10-101et seq. Employer and Driver will hold the State of Colorado harmless.
3. Employer, Driver and Requesting Agency Fleet Coordinator must sign and date the request. By signing, the driver and Agency Coordinator are acknowledging that they are familiar with the rules of operating a State Vehicle (and the operators handbook), including but not limited to:
  - a. Proper Use of Fuel Card.
  - b. Pre-Authorization of Maintenance and Repair Services.
  - c. Preventive Maintenance Schedule.
  - d. Accident Reporting.
  - e. Odometer Reporting – to agency vehicle coordinator.
  - f. Possession of a valid U.S. drivers license
  - g. No personal use (other than De minimis).
  - h. Non-State Employees are NOT eligible for the Commuting Program.
4. Driver (Employer) and Agency are responsible for ensuring that the dates on this form and the insurance do not lapse, and that if such a lapse should occur, the use under this authorization shall discontinue immediately.
5. An authorization form and insurance coverage is required for each vehicle.
6. Availability of vehicles is the responsibility of the Agency. Fleet will not provide additional vehicles to accommodate this use.
7. Authorization may be canceled and privileges revoked for the violation of any State of Colorado laws or policies pertaining to the use of a State Vehicle.

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**VEHICLE LICENSE PLATE**

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**DATE RANGE OF USE**

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First/Last Name of Driver

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Driver Sign and Date

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Drivers Employer

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Employers Address

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Employer Contact Name

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Employer Contact Phone Number

## Agency Authorization

\_\_\_\_\_  
Requesting Agency (Department/Division)

\_\_\_\_\_  
Agency Program

\_\_\_\_\_  
Program Contact and Phone

\_\_\_\_\_  
Sign and Date

Brief Explanation of Benefit to the State:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Requesting Agency Vehicle Coordinator

\_\_\_\_\_  
Sign and Date

## State Authorization

\_\_\_\_\_  
Risk Management (Insurance Acceptance)

\_\_\_\_\_  
Sign and Date

\_\_\_\_\_  
Fleet Manager (APPROVAL)

\_\_\_\_\_  
Sign and Date

Note: Vehicle License and Driver: \_\_\_\_\_

## VOLUNTEER ACKNOWLEDGEMENT FORM

I \_\_\_\_\_, hereby acknowledge that when driving State of Colorado vehicles on a volunteer basis the State's liability coverage attaches to the driver, however, workers compensation does not apply, and the driver is responsible for his or her own medical payments.

**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.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date