

ESSENTIALS OF

# RISK MANAGEMENT

## FOR MOTOR VEHICLES



Minnesota Counties Intergovernmental Trust

This manual is intended for general information purposes only and should not be construed as legal or coverage advice on any specific matter. The appropriate experts should be consulted when making decisions regarding the information provided in this guide. Questions concerning this guide should be directed to MCIT director of field services at 1.866.547.6516.

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*MCIT.org*

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## INTRODUCTION

# REDUCE RISKS OF VEHICLE OPERATIONS

Automobiles are an integral part of operations for almost every aspect of local government services. Minnesota Counties Intergovernmental Trust (MCIT) provides coverage for more than 11,000 vehicles, including tandem trucks, tractor-trailers, buses, vans, squad cars, SUVs, pickup trucks and sedans.

In an average year, MCIT handles more than 1,100 claims related to vehicles. Many of these involve a financial cost for the member, as well as disruption of operations due to equipment taken out of service. A greater loss is when injuries occur and an employee is away from work for weeks, months or longer.



Ensuring the safe and effective operation of vehicles is essential to the member's ability to continue to serve the public and protect employees. Risks range from safety and legal compliance to liability and coverage issues.

It is incumbent upon MCIT members to focus on strategies to reduce the risks related to the operation of their vehicles.

## THIS GUIDE

This guide provides an overview of several key risks of motor vehicle use for local public entities and provides strategies members can use to manage and minimize them. The guide is broken into these categories of discussion:

- > Federal and state statutory requirements related to motor vehicle use.
- > Coverage provided through MCIT.
- > Safety best practices.
- > Duties members have after a loss, including an explanation of the claim process.

When appropriate, references to additional resources have been included to help manage risks associated with motor vehicle use.

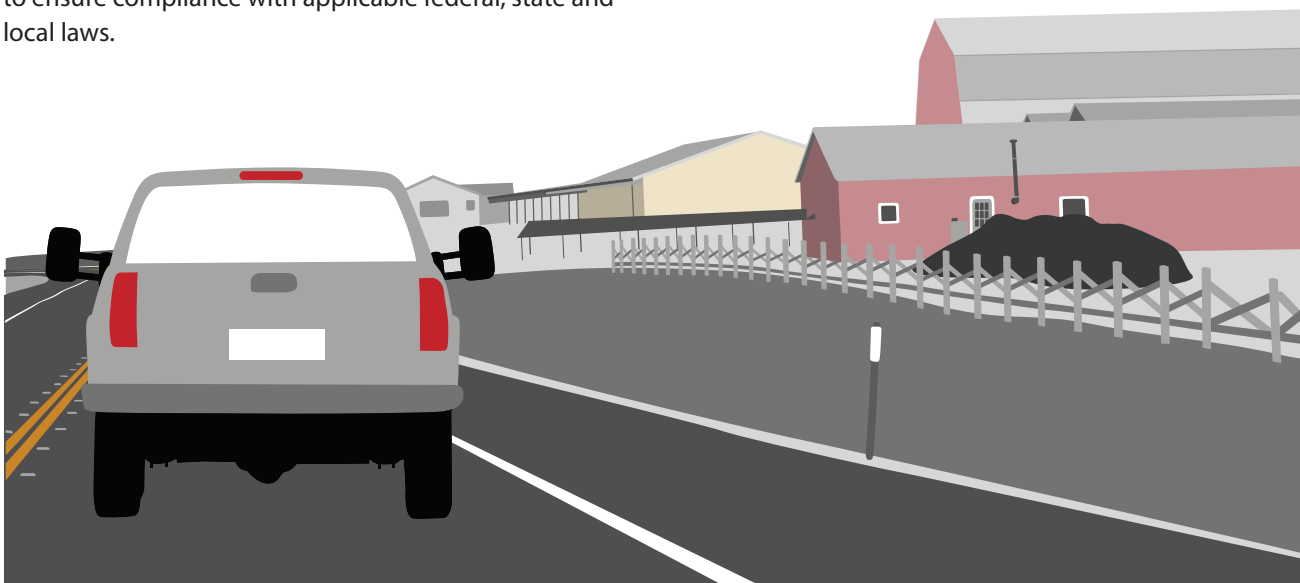
## FURTHER DISCUSSION

Members are encouraged to contact their MCIT risk management and loss control consultants at **1.866.547.6516** with questions regarding vehicle use from a risk management and safety perspective. Members should work with the county attorney or other legal counsel when setting up policies and procedures to ensure compliance with applicable federal, state and local laws.

## MCIT AND MEMBERS: MANAGING RISKS TOGETHER

Minnesota Counties Intergovernmental Trust is not an insurance company. MCIT is a freestanding governmental joint powers entity that operates as a risk sharing pool dedicated to providing coverage and risk management and loss control services for its members. Members include Minnesota counties and associated public entities, such as soil and water conservation districts, health and human services entities, transit agencies and other joint powers or collaborative entities. MCIT offers property, liability, auto, cyber and workers' compensation coverage.

MCIT itself is a public entity, so it has no profit motive. Its primary goal is to assist members in managing their risks and reducing losses. MCIT accomplishes this by providing coverage tailored to the exposures of local public entities in Minnesota, individualized risk management and loss control advice, and no-cost products that further help members understand and manage their risks.



# MOTOR VEHICLE LAWS

Minnesota laws govern who may legally operate a motor vehicle, detail the types of vehicles any one authorized driver may operate, and provide for the registration and licensing of vehicles. Federal regulations also apply to commercial vehicles. Understanding how these laws affect local government directly can assist members in managing exposures and ensuring compliance.

Many of the regulations described in this chapter exist to ensure safer travel for everyone, leading to reduced claims, losses and expenses. Claims expenses, both direct and indirect, are controllable and manageable. Operating the fleet safely and legally controls costs. The goal should be to get every person and every vehicle through the day intact.





## DRIVER'S LICENSES

Minnesota requires an appropriate license to operate a motor vehicle.<sup>1</sup> “Appropriate” means possessing a valid, unexpired license to drive the type or class of vehicle being driven. Beyond the importance of operating within the law, having the appropriate license assumes that the driver has the needed credentials, training and experience to operate the vehicle safely. This is a crucial risk management step in minimizing the potential for automobile losses.

There are four license classes: A-D. Classes A, B and C are considered commercial driver’s licenses (CDLs). Drivers need a CDL to operate commercial motor vehicles.

The federal government defines a commercial motor vehicle as a self-propelled or towed motor vehicle:<sup>2</sup>

- > Used on a highway in interstate commerce to transport passengers or property when the vehicle’s gross weight or gross combined weight is more than 10,000 pounds; or
- > Designed or used to transport more than eight passengers (driver included) for compensation; or
- > Designed or used to transport more than 15 passengers (driver included) and is not used to transport passengers for compensation; or
- > Used in transporting hazardous material in a quantity requiring placarding.

Under Minnesota law, “commercial motor vehicle” means a motor vehicle or combination used to transport passengers or property if:<sup>3</sup>

- > The motor vehicle has a gross vehicle weight of more than 26,000 pounds; or
- > Has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds; or
- > Is a bus; or
- > Is used in transporting hazardous material in a quantity requiring placarding; or
- > Is outwardly equipped and identified as a school bus (exceptions apply).

### DRIVER'S LICENSE TYPES

Classes A-C are commercial driver’s licenses required to operate commercial motor vehicles.

- > **Class A licenses** are for operating any vehicle towing a unit of more than 10,000 pounds with a combined weight of greater than 26,000 pounds.
- > **Class B licenses** are for single unit vehicles 26,001 pounds or more.
- > **Class C licenses** are for single unit vehicles 26,000 pounds or less. With the appropriate endorsements, drivers may haul hazardous cargo, carry passengers or operate a school bus.
- > **Class D licenses** are for driving single unit vehicles 26,000 pounds or less, towing trailers 10,000 pounds or less, hauling nonhazardous cargo and carrying no more than 15 people. If towing a trailer more than 10,000 pounds, the total weight of the vehicle combination must not exceed 26,000 pounds.

A CDL allows operating commercial vehicles with passengers and progressively more challenging cargoes, including hazardous materials, trailer combinations and overall vehicle weight. Carrying specific cargoes and passengers, riding a motorcycle and operating a school bus may require endorsements, as well.

### CAUTION

Although not required, members may feel an obligation to verify the license statuses of their CDL and non-CDL drivers. This can be a time-consuming process, and there are other risks.

Collecting personal data from employees may require a written Tennessee warning prior to gathering the information and include restrictions on the use and storage of that information. Employers should consult with legal counsel prior to implementing a license verification process.

## VEHICLE REGISTRATION

With some exceptions, vehicle owners must register, pay registration fees and display license number plates to operate vehicles legally on the roads of the state. The Minnesota statutory definition of “vehicle” includes trailers.<sup>4</sup> Vehicles operating without the required license plates are subject to being stopped and ticketed. Stationary vehicles without plates can be ticketed and towed. Registration fees are a major source of funding for roads and infrastructure. Without collection of these fees, municipalities would have to engage in additional direct levying to pay for roads. Violators of vehicle laws are typically guilty of misdemeanors or gross misdemeanors upon conviction.

Tax-exempt vehicles are those used in the official business of a political subdivision. They must display tax-exempt license number plates unless they are unmistakably law enforcement patrol vehicles or ambulances. Law enforcement patrol vehicles and ambulances of a political subdivision do not require registration and need not display tax-exempt license plates.

Unmarked vehicles used in general law enforcement work and county social service agency vehicles used for child and vulnerable adult protective services must be registered and display appropriate license number plates.

## PUBLIC VEHICLE IDENTIFICATION

All motor vehicles owned or leased by a political subdivision must have the name of the political subdivision plainly displayed on both sides of the vehicle in letters not less than 2.5 inches high and 0.5 inch wide. The identification must be in a color that contrasts with the color of the part of the vehicle on which it is placed and must remain on and be clean and visible throughout the lease or ownership period.

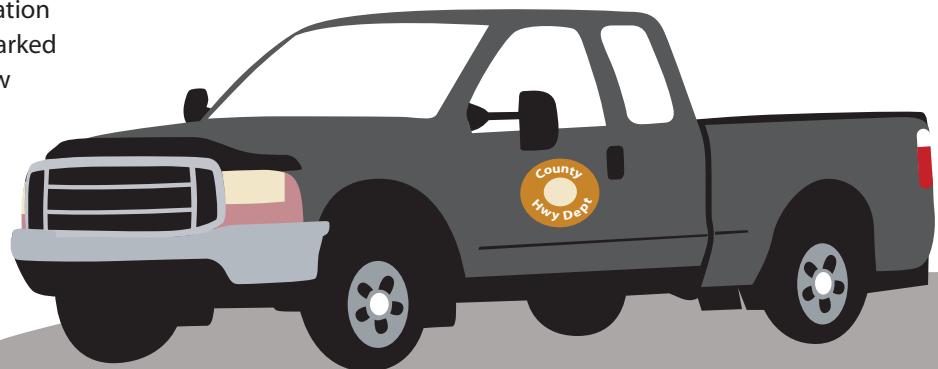
This easily observable identification promotes safe vehicle operation because the driver’s behavior reflects on the organization. There is a strong incentive to minimize unsafe actions in such a public vehicle. The vehicle signage also helps deter theft, both of the vehicle and the equipment carried in it.

Exceptions to this identification requirement apply to unmarked vehicles used in general law enforcement and fire work, arson investigations, county fraud prevention investigations conducted by a county or contract

fraud prevention investigators<sup>5</sup> and county social service agency vehicles used for child and vulnerable adult protective services.

### DEPARTMENT OF TRANSPORTATION NUMBER AND DISPLAY

All commercial vehicles must obtain a U.S. Department of Transportation number and plainly display the letters “USDOT” followed by the number on both sides of the vehicle.<sup>6</sup> Although these rules apply to a public entity’s contractors, vendors and service providers they *do not apply* to vehicles owned and used solely for the business of Minnesota political subdivisions.<sup>7</sup>





## INSURANCE

The Minnesota No-fault Automobile Insurance Act (Minnesota Statutes, Chapter 65B.41) mandates minimum coverages to operate a motor vehicle lawfully. Minnesota vehicles are required to carry personal injury protection (no fault medical), liability insurance and uninsured and underinsured motorist coverage. Proof of carrying the minimum insurance is required in the vehicle at all times:

- > No-fault insurance (personal injury protection) minimum limits: \$20,000 for medical expenses and \$20,000 for economic loss.
- > Liability insurance minimum limits: \$30,000 for injuries per person, \$60,000 for total injuries per accident and \$10,000 for property damage.
- > Uninsured/underinsured motorist insurance minimum limits: \$25,000 per person each coverage and \$50,000 aggregate each coverage.

In Minnesota, the basic rule is that automobile coverage responsibility follows the vehicle. The coverage on the vehicle is primary, or the first to respond in the event of a claim. That priority can change when no-fault coverage is involved. *See the Personal Injury Protection coverage discussion in Chapter 2, Coverage for Vehicles for more information.*

### COMMERCIAL MOTOR VEHICLE INSURANCE

Those who transport property using a motor vehicle are required to carry liability insurance. Minimum limits: \$100,000 for injuries per person, \$300,000 for total injuries per accident and \$50,000 property damage (*see Chapter 2, Coverage for Vehicles, for additional details*).

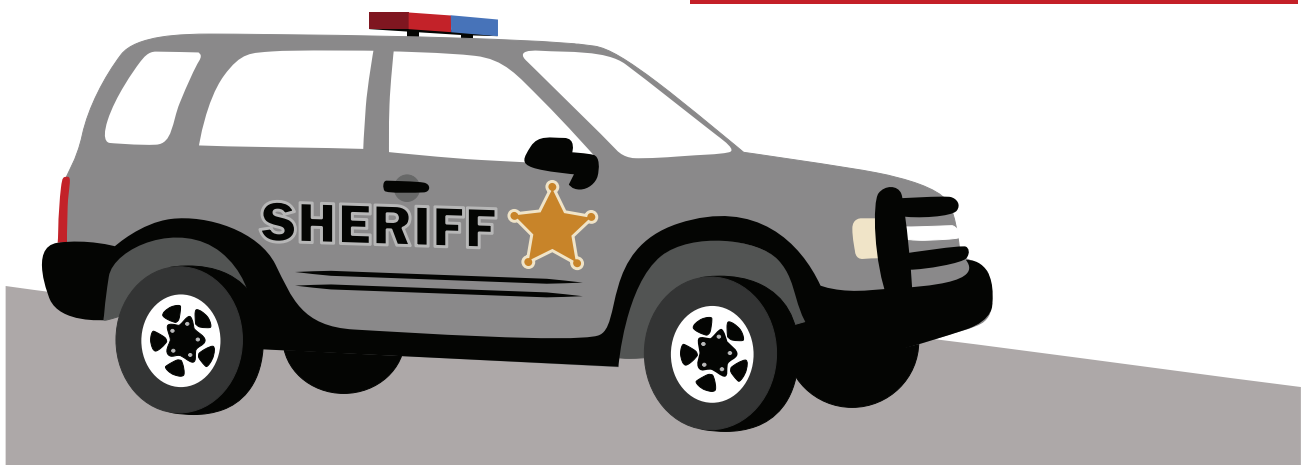
## POLITICAL SUBDIVISION TORT LIABILITY

Under Minnesota Statutes, Chapter 466, municipalities are liable for their torts (causing damage or injury) and those of their officers, employees and agents acting within the scope of their employment or duties whether arising out of a governmental or proprietary function. Various immunities may apply.

Damages or injuries caused by negligence in operating or maintaining a vehicle fall under this law. *See Chapter 2, Coverage for Vehicles for details about MCIT coverage and how it responds in these situations.*

### INDEMNIFICATION REQUIREMENT

Minnesota Statutes, Chapter 466, requires a local government unit to defend and indemnify any of its officers and employees for damages, including punitive damages, claimed or levied against the officer or employee when the individual was acting in the performance of the duties of the position; and was not guilty of malfeasance in office, willful neglect of duty or bad faith.



## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

The Federal Motor Carrier Safety Administration promulgates rules for the safe operation of commercial vehicles in interstate commerce.<sup>8</sup> Minnesota law regulates the operation of these vehicles for commerce within the state.<sup>9</sup>

The regulations touch on:

- > Training
- > Hours of service of drivers
- > Drug and alcohol testing
- > Safety fitness
- > Vehicle inspection, repair and maintenance
- > Hazardous material transport
- > Safe operation of vehicles
- > Equipment, parts and accessories
- > Driver qualifications
- > Accident reporting
- > Identification of vehicles
- > Installation of safety devices

### MEDICAL CERTIFICATE

Transportation performed by any political subdivision of a state is exempt from the federal medical certificate rules (see below).<sup>10</sup> However, the best practice is to have a medical examination of CDL drivers prior to placement and periodically thereafter.

These rules exist to ensure that drivers are physically able to handle the stress of driving commercial vehicles. A medical certificate shows that a driver is not subject to a mental or physical disease or condition that could interfere with controlling a commercial vehicle.

Due to their size, weight and use, accidents involving commercial vehicles are often severe with the potential for serious injuries and significant property damage.

### FEDERAL MEDICAL CERTIFICATE RULES

A person must not operate a commercial vehicle unless he or she is medically certified as physically qualified to do so. A medical card (health card) is issued by a medical facility after completion of an examination indicating physical qualification to operate a vehicle.<sup>11</sup>

The examination must be performed by a medical examiner listed on the National Registry of Certified Medical Examiners. Any medical facility that offers a Department of Transportation physical examination may issue a medical card on the form prescribed. Medical certifications may be valid for up to two years. Licensed medical examiners may certify drivers for less than a two-year period if certain medical conditions are present or need monitoring.

Passenger carrier exception: The driver of a passenger vehicle who is engaged in intrastate transportation is not required to carry a medical certificate if he or she has a valid driver's license with a valid school bus endorsement.

### DRUG AND ALCOHOL TESTING

Generally, all drivers who operate commercial vehicles subject to the CDL requirements on public roads in the United States are performing safety-sensitive functions. As a result, these drivers are subject to Department of Transportation drug and alcohol testing. This includes all full-time, part-time, intermittent, backup and international drivers. Drivers who only operate commercial vehicles on private property not open to the public do not require testing.

CDL drivers are subject to each of the following types of tests.

**Pre-employment:** A new driver must pass a drug test before an employer can permit him or her to operate a commercial vehicle on a public road. Members may perform alcohol testing only if it applies to all CDL drivers. If a driver is removed from a random testing pool for more than 30 days, he or she must again be pre-employment tested.

**Post-accident:** CDL drivers must be drug and alcohol tested whenever they are involved in a fatal incident or receive a traffic citation resulting from an injury or vehicle-disabling incident. The alcohol test must occur within eight hours of the incident, and the drug test must occur within 32 hours of the incident.

**Random testing:** CDL drivers are subject to unannounced random testing. A driver may be directed to take a drug test even when at home in an off-duty status. Random alcohol testing may only occur

when the driver is on duty or immediately before or after a shift. Drivers must immediately report to the testing location once they are notified that they have been selected for random testing. Delaying arrival may be considered a refusal, which is equivalent to testing positive.

**Reasonable suspicion:** Department of Transportation-trained supervisors can direct drivers to be drug or alcohol tested whenever drivers exhibit signs of drug use or alcohol abuse. The decision must be based on observations concerning the appearance, behavior, speech or body odors of the driver.

**Return-to-duty:** Return-to-duty tests are required when an employer wants to permit the employee to return to work in a safety-sensitive function and the employee has completed the return-to-duty process. This test is directly observed and replaces pre-employment tests for positive-tested and refusal drivers.

**Follow-up:** Follow-up drug and alcohol tests are required as prescribed by the Substance Abuse Professional (SAP) who signs the return-to-duty report. An SAP assessment provides the employee with a chemical health assessment, clinical assessment tools, recommendations and a follow-up assessment.

SAP services should provide the employer with written documentation of the client's attendance at an SAP appointment, reports on the driver's compliance with recommendations and a follow-up testing schedule that is consistent with DOT regulations. This is a multi-step process that can take weeks or months to complete, and the SAP provider should partner with the employer throughout the process.

Follow-up tests consist of a minimum of six unannounced, directly observed tests conducted during the first 12 months following the return-to-duty test. The SAP can prescribe follow-up testing for a maximum of five years for drivers who have tested positive or refused to test. Follow-up testing is in addition to any selections for random testing.<sup>12</sup>

As employers, members must provide each employee, including applicants or new employees who violate a DOT drug and alcohol regulation, a listing of SAPs readily available to them and acceptable to the member, with names, addresses and telephone numbers. The Employee Assistance Program that is part of MCIT membership includes SAP services. These services are provided at no cost to all MCIT eligible employers and their drivers who have a DOT violation. More information about SAP services is available at [MCIT.org/employee-assistance-program/](http://MCIT.org/employee-assistance-program/).





Employers are not required to provide an SAP evaluation or any subsequent recommended education or treatment for an employee who has violated a DOT drug and alcohol regulation. However, if a member offers that employee an opportunity to return to a DOT safety-sensitive duty following a violation, before the employee again performs that duty, the member must ensure that:

- > The employee receives an evaluation by an SAP that meets the requirements of the regulations, and
- > The employee must successfully comply with the SAP's evaluation recommendations.

The drug and alcohol testing regulations brochure offers more details and is available at *FMCSA.dot.gov*.

Each employer must ensure that all supervisors of drivers receive at least 60 minutes of training about recognizing alcohol misuse and receive at least an additional 60 minutes of training about recognition of controlled substances use. Supervisors can then use the training to determine whether reasonable suspicion exists to require a driver to undergo drug and alcohol testing. The training includes the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

Although recurrent training for supervisory personnel is not required, it is a best practice. This crucial training keeps management up to date on recognizing the latest warning signs, refreshes knowledge of the requirements of the testing program and reiterates the supervisor's responsibility. It reminds supervisors how important their role is in preventing and intervening early with driver drug and alcohol issues.

## HOURS OF SERVICE RULES

Operators of commercial vehicles must limit the amount of driving and on-duty time per the FMCSA regulations. Transportation performed by any political subdivision of a state is exempt from the driver's hours of service regulations; however, MCIT recommends that members follow these rules.<sup>13</sup> The safety of employees and others on the roadways depends on the physical ability of operators to control commercial vehicles safely. Operating a commercial vehicle beyond the duty times in the hours of service rules increases the potential for accidents.

Fatigue, increased decision-making duration and slower physical reaction times contribute to higher

accident frequency. When a commercial vehicle is involved, the severity potential is higher, as well. This increase applies to severity of injuries and the amount of property damage.

## FEDERAL HOURS OF SERVICE RULES

For drivers operating nonpassenger vehicles, the maximum allowed on-duty time is 14 consecutive hours after 10 consecutive hours off duty.

- > Of the 14 hours, 11 hours may be spent driving with no more than eight hours on-duty time after a required 30-consecutive-minute rest break.
- > Drivers must cease working after 60 on-duty hours in seven days for non-seven-days-a-week employers.
- > Drivers must cease working after 70 on-duty hours in eight days for seven-days-a-week employers.
- > To reset this weekly limit, drivers must have 34 consecutive off-duty hours.

For commercial vehicle drivers carrying passengers, the maximum allowed on-duty time is 15 hours after eight consecutive hours off duty.

- > Of the 15 hours, 10 hours may be spent driving.
- > Drivers must cease working after 60 on-duty hours in seven days for non-seven-days-a-week employers.
- > Drivers must cease working after 70 on-duty hours in eight days for seven-days-a-week employers.

All of this driving and on-duty and off-duty time must be recorded, usually via logging the hours in an electronic logging device.<sup>14</sup>

There are exceptions for drivers who stay within a 100-air-mile radius (about 115 statute or land miles). The regulations specify air miles.

Hours of service logging is not required for drivers of nonpassenger vehicles who meet all of the following criteria:

- > Stay within a 100 air-mile radius of their work-reporting location
- > Return to their work-reporting location
- > Go off duty within 12 consecutive hours
- > Drive no more than 11 of the 12 on-duty hours
- > Have at least 10 hours off duty before the next 12 hours on duty
- > Keep time records. A rest break of 30 consecutive minutes is required if the person is driving and eight hours have passed since the last rest break of at least 30 consecutive minutes.

Hours of service logging is not required for drivers of passenger commercial vehicles who meet all of the following criteria:

- > Stay within a 100 air-mile radius of their work-reporting location
- > Return to their work-reporting location
- > Go off duty within 12 consecutive hours
- > Drive no more than 10 of the 12 on-duty hours
- > Have at least eight hours off duty before the next 12 hours on duty
- > Keep time records

## REQUIRED SAFETY EQUIPMENT

Federal regulations identify required safety equipment for commercial vehicles.<sup>15</sup> For emergency purposes they must carry:

- > A charged, appropriate type, readily accessible fire extinguisher.
- > Three reflective triangles, three flares or six fusees.
- > Spare fuses for every fuse type and size in the vehicle.

State law also specifies required safety and operational equipment for vehicles, such as lights, brakes, horns, seat belts, car seats, safe tire treads, mufflers, mirrors, bumpers and wheel flaps.

Drivers must properly secure cargo and cover loads to ensure no dropping, sifting, leaking, blowing or other types of release. The details of this section are beyond the scope of this guide, but are nonetheless important motor vehicle related rules.<sup>16</sup> See *Chapter 3, Reduce Hazards, Improve Safety for additional details.*

## MANDATORY SAFE PRACTICES, BEHAVIORS

State law and federal regulations require drivers to follow safe practices and safe behaviors.

- > A properly adjusted seat belt, including both the shoulder belt and the lap belt, must be worn by the driver and passengers in a vehicle.
- > A child passenger restraint system (car seat or booster seat as appropriate) must be used when transporting a child who is both under the age of eight and shorter than 4 feet, 9 inches tall. Exceptions to this rule include when transporting a child in an emergency medical vehicle while performing official duties if it is impractical or a restraint system is unavailable; or when a peace officer is transporting a child while performing official duties if a restraint system is unavailable. Then a seat belt must be used.
- > Drivers may not use televisions, wireless devices or headphones. Images from an installed television screen must not be visible to the driver except for:
  - ◆ Video screens in law enforcement vehicles.
  - ◆ Closed circuit video systems to aid the driver's ability to see the front, rear or sides of the vehicle.
  - ◆ Video screens installed as part of a vehicle control system or used in intelligent vehicle highway applications.

## WIRELESS COMMUNICATIONS DEVICES

When a motor vehicle is part of traffic, the driver may not engage in texting, mobile calling or accessing stored content on a device except in

voice-activated or hands-free mode. Using a wireless communications device in hands-free mode is permitted for playing audio-based content, for GPS purposes or to obtain emergency assistance. Using a wireless communications device in an authorized emergency vehicle while in the performance of official duties is allowed.

A commercial vehicle driver is restricted from driving while holding a mobile phone to conduct voice communication and dialing a mobile phone by pressing more than a single button. Hands-free use is allowed via an earpiece, a Bluetooth connection or the speakerphone function of the device.

No driver shall engage in texting while driving. Texting or using a hand-held mobile phone while driving is permissible when necessary to communicate with law enforcement officials or other emergency services.<sup>17</sup>

While operating a motor vehicle, no person may wear headphones or earphones that are used in both ears simultaneously for purposes of receiving or listening to broadcasts or reproductions from radios, tape decks or other sound-producing or transmitting devices. This does not include the use of a hearing aid device by a person who needs the device, the use of a communication headset by an emergency medical services person while operating an ambulance subject to Section

144E.101.<sup>18</sup> *Chapter 3, Reduce Hazards, Improve Safety has more information about this issue.*

## **ALCOHOL AND CONTROLLED SUBSTANCE USE**

Impaired driving is dangerous to life and property. Both state law and federal regulations address alcohol and drug use by drivers.

In Minnesota, it is a crime for a person to drive while under the influence of alcohol, a controlled substance, an intoxicating substance known by the person to cause impairment or any combination of the three. An alcohol concentration of 0.08 as measured within two hours of driving is the limit for noncommercial drivers. For commercial drivers, the limit is a concentration of 0.04 within two hours of driving.<sup>19</sup>

Federal law prohibits all use of controlled substances outside of a doctor's care while driving. In addition, regulations prohibit all on-duty use of alcohol, no use within a four-hour period before reporting for duty and no post-accident use when post-accident testing is required until the testing is complete or until eight hours have passed, whichever occurs first.<sup>20</sup>

## **CANNABIS, THC AND CBD**

Minnesota law allows possession and use of hemp-derived cannabis in the form of tetrahydrocannabinol (THC)-infused edibles and beverages and other cannabinoid (CBD) products. As noted above, impaired driving is illegal. The law provides no allowance for an employee to use, possess or be impaired by cannabis while on duty; and does not set a threshold for impairment due to cannabis use. For non-CDL employees, employers may need to update personnel policies to reflect the entity's position on cannabis possession and use.

For CDL drivers, federal law preempts state law related to cannabis use. CDL drivers may not use any cannabis, regardless of state law protections. As a result, those with CDLs run the risk of losing their CDLs if they drive after consuming what is a legal product in Minnesota.

## **PROPER LOAD SECUREMENT**

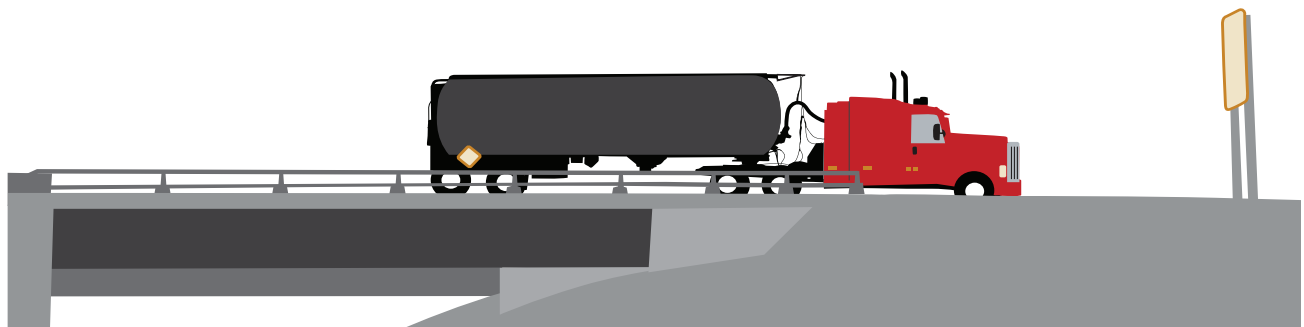
To address the danger presented by the discharging of cargo from a commercial vehicle, federal rules require operators to take measures to prevent the loss of a load when transporting cargo on public roads. Each commercial vehicle operator must secure cargo to prevent it from leaking, spilling, blowing or falling from the vehicle. In addition, cargo must be contained, immobilized or secured to prevent shifting upon or within the vehicle to such an extent that the vehicle's stability or maneuverability would be adversely affected.<sup>21</sup>

Minnesota has adopted the load securement requirements of the Federal Motor Carrier Safety Administration. The regulations are applicable to all commercial vehicles operating in interstate or intrastate transportation. For drivers who are transporting hazardous materials, additional loading and unloading requirements may apply.

## **WARNING FLAGS ON PROJECTING LOADS**

Any commercial vehicle transporting a load that extends beyond the sides by more than 4 inches or more than 4 feet beyond the rear must have the extremities of the load marked with red or orange fluorescent warning flags. Flags must be located to indicate the maximum width of loads that extend beyond the sides and/or rear of the vehicle.

Each warning flag must be at least 18 inches square. There must be a single flag at the extreme rear if the projecting load is 2 feet wide or less. Two warning flags are required if the projecting load is wider than 2 feet.<sup>22</sup>





## MOTOR VEHICLE INSPECTIONS

A commercial vehicle must display a valid safety inspection decal issued by an inspector certified by the state and proof that the vehicle complies with federal motor vehicle inspection requirements for vehicles in interstate commerce, as required by state and federal law.<sup>23</sup>

In addition, commercial vehicles are subject to spot-check inspections by the Minnesota State Patrol. These inspections are intended to reveal unsafe motor vehicles and motor vehicle equipment.<sup>24</sup>

### DAILY VEHICLE INSPECTION REPORT

Drivers are required to perform a daily inspection of the commercial vehicles he or she operated that day. A written report is required for all passenger-carrying vehicles and for nonpassenger vehicles if a defect or deficiency is identified.

The report must cover:

- > Brakes and brake connections
- > Steering mechanism
- > Lighting devices and reflectors
- > Tires
- > Horn
- > Windshield wipers
- > Mirrors
- > Coupling devices
- > Wheels and rims
- > Emergency equipment

After the daily inspection, the commercial vehicle must not be operated unless the owner has certified on the daily vehicle inspection report (DVIR) that the defect or deficiency has been corrected or does not need correcting. A copy of the DVIR, including

the certification by the owner, must be carried in the vehicle until the next DVIR.

### DRIVER PRE-TRIP INSPECTION

Prior to the first operation of a commercial vehicle following completion of a daily inspection, a driver must do the following:

- > Review the most recent daily inspection report on the vehicle.
- > Determine that the vehicle is in safe operating condition.
- > Sign the inspection report in the vehicle.

The driver shall sign the report only if all defects and deficiencies listed in the report have been certified as having been corrected or as not requiring correction.<sup>25</sup>

### MORE ABOUT VEHICLE SAFE PRACTICES

See Chapter 3, Reduce Hazards, Improve Safety for vehicle and driver readiness best practices.

### POST-INCIDENT INSPECTION

After an incident involving a commercial vehicle, a responding peace officer must immediately notify the state patrol if the acci-

dent results in one of the following:

- > Fatality.
- > Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
- > One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported from the scene by tow truck or other motor vehicle.

The commercial vehicle may not be driven until one of the following circumstances:

- > The vehicle has been inspected by a state trooper or other person authorized to conduct inspections, and the person

## LEGAL ISSUES FOR PERSONAL USE OF PUBLIC VEHICLES

See Chapter 2, MCIT Coverage for Motor Vehicles, for legal implications of employees using member-owned vehicles for personal use.

inspecting the vehicle has determined that the vehicle may safely be operated.

- > An inspector has waived the inspection requirement if he or she determines that a post-crash inspection is not needed or cannot be accomplished without unreasonable delay.

A person who grants a waiver must provide to the driver of the commercial vehicle for which the waiver is granted a written statement that the inspection has been waived. The written statement must include the incident report number assigned to the accident by the state patrol.<sup>26</sup>

## RESOURCES

- > [Minnesota Driver's License Manual](#)
- > [Minnesota Commercial Driver's License Manual](#)
- > [Minnesota Commercial Truck and Passenger Regulations guide](#)
- > [Minnesota Safety Council: \*MinnesotaSafetyCouncil.org\*](#)

<sup>1</sup> Minn. Stat. Ch. 171

<sup>2</sup> 49 CFR § 390.5

<sup>3</sup> Minn. Stat. § 169.011

<sup>4</sup> Minn. Stat. Ch. 168

<sup>5</sup> Minn. Stat. § 471.346

<sup>6</sup> 49 CFR § 390.21

<sup>7</sup> Minn. Stat. § 168.185

<sup>8</sup> 49 CFR Parts 300-399, 100-180 and 40

<sup>9</sup> Minn. Stat. Ch. 221

<sup>10</sup> 49 CFR § 390.3(f)(2)

<sup>11</sup> 49 CFR § 391.43

<sup>12</sup> 49 CFR Part 382 and 49 CFR Part 40

<sup>13</sup> 49 CFR § 390.3(f)(2)

<sup>14</sup> 49 CFR Part 395

<sup>15</sup> 49 CFR § 393.95

<sup>16</sup> Minn. Stat. §§ 169.46-169.75, 169.81 subd. 5

<sup>17</sup> 49 CFR §§ 392.80 and 392.82

<sup>18</sup> Minn. Stat. §§ 169.46 – 169.75

<sup>19</sup> Minn. Stat. § 169A.20.

<sup>20</sup> 49 CFR Part 382

<sup>21</sup> 49 CFR § 393.100.

<sup>22</sup> 49 CFR § 393.87

<sup>23</sup> Minn. Stat. § 169.781, 49 CFR § 396.17

<sup>24</sup> Minn. Stat. § 169.771

<sup>25</sup> Minn. Stat. § 169.782

<sup>26</sup> Minn. Stat. § 169.783

# MOTOR VEHICLE LAWS CHECKUP

ITEM	YES	NO	ACTION ITEM
Do all drivers of the organization's fleet vehicles have current and appropriate driver's licenses for the vehicles they drive?			
Do all eligible vehicles display tax-exempt license number plates?			
For member-owned vehicles, is the name of the organization plainly displayed on both sides of the vehicle in contrasting colors and at least 2.5 inches high by 0.5 inch wide?			
Do all CDL drivers have a medical examination prior to placement and periodically thereafter?			
Are all federal and state drug and alcohol testing requirements met for CDL drivers?			
Does the organization follow the hours of service rules for CDL drivers?			
Does each vehicle have the required safety equipment (fire extinguisher, reflective triangles, flares, fuses, etc.)?			
Do all drivers and occupants wear seat belts every time they are in a vehicle for business purposes?			
Are appropriate child restraints always used when transporting children?			
Do all drivers refrain from using mobile devices while driving except in accordance with the Minnesota hands-free law?			
Do all drivers avoid using alcohol and controlled substances before and while driving within regulation standards?			
Do personnel policies reflect the organization's position on restrictions or prohibitions of cannabis and THC usage?			
Are all loads properly secured to prevent the loss of the load while transporting cargo on public roads?			
Are warning flags used on projecting loads while transporting on public roads according to regulations?			
Are all vehicles inspected according to federal and state inspection requirements?			



# MCIT COVERAGE FOR MOTOR VEHICLES

Automobile coverage protects an organization from financial loss in the event of an accident, damage or theft involving a covered auto. In exchange for the member's paying a contribution, MCIT agrees to pay losses as outlined in the coverage document. It is important for members to understand the various ways that coverage applies and when it does not. This allows them to manage risks associated with motor vehicles for their operations.

Regardless of who owns or drives a vehicle, this basic concept applies: Coverage follows the vehicle. This tenet is important in almost all aspects of understanding how coverage responds to specific situations.

For MCIT members, auto coverage is governed by the MCIT Coverage Document. Members should refer to it for complete details about coverage. Prompt reporting of all auto incidents is key to managing the cost of claims and to a timely resolution. *See Chapter 4, Duties After a Loss for additional information.*



## AUTO COVERAGE DEFINITIONS

Definitions of key terms frame MCIT auto coverage and determine how coverage applies. Below are four terms of particular importance.

**Ownership:** MCIT's vehicle coverage varies by the ownership status of the auto. The categories are owned, hired and nonowned. Owned or leased autos, but not short-term rentals, are considered owned vehicles. Hired autos include short-term rentals. Nonowned autos typically belong to employees, volunteers or officials.

**Covered auto:** To ensure that coverage is in place for vehicles, members must add them to their auto schedule. Covered autos include scheduled autos, which are road-licensed vehicles, trailers and mobile equipment when carried or towed by a covered auto. Members need to remember that if the vehicle is not scheduled, it is not covered.

MCIT's coverage is primary for a loss involving a scheduled vehicle, including optional physical damage (first-party claims) and liability (third-party claims).

**Covered party:** The definitions of "covered party" and "member" are closely aligned. They are similar to the term "insured" in an insurance policy. MCIT coverage extends to the covered party and the member named in the MCIT Coverage Document. Covered parties include the member; and the member's elected or appointed officials, employees, authorized volunteers, those officially appointed by the member to a board or commission, any law enforcement personnel of the member, and individuals who use a covered auto with member permission on behalf of or in conjunction with the member.

Coverage extends to acts within the scope of the covered party's employment by or duties on behalf of the member in their official capacity.

**Permissive use:** Any person's use with member permission of a covered auto on behalf of or in conjunction with the member.

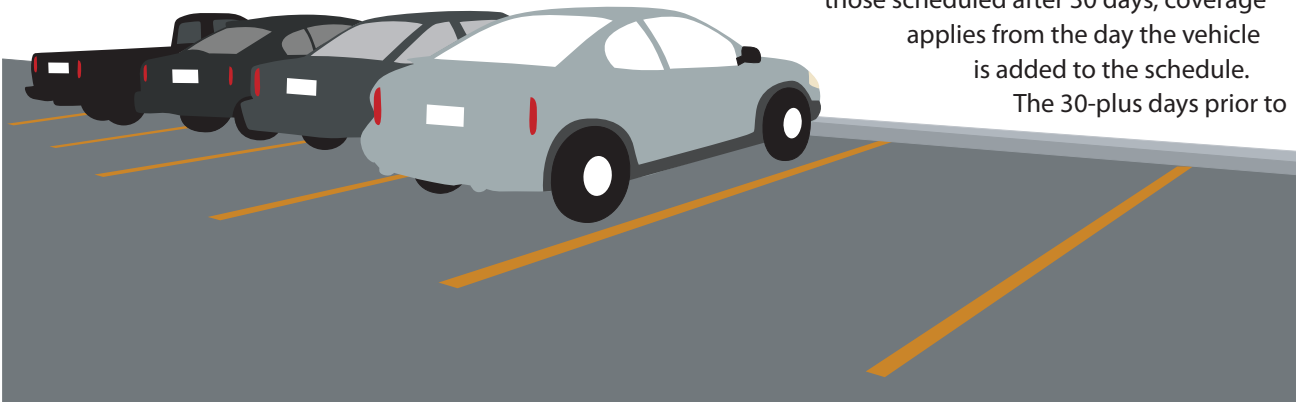
## IMPORTANCE OF SCHEDULING VEHICLES

Member-owned and leased vehicles are all considered vehicles owned by the member under MCIT coverage. Owned vehicles need to be listed on the member's MCIT automobile schedule for coverage to apply. MCIT coverage is primary on scheduled vehicles, meaning it pays or responds first to an incident.

### NEWLY ACQUIRED VEHICLES

Newly acquired automobiles have automatic coverage for 30 days after acquisition, but members must schedule them within those 30 days for seamless coverage to apply. This is true for both liability and physical damage coverages.

For vehicles scheduled within 30 days of acquisition, coverage applies from the day of acquisition. For those scheduled after 30 days, coverage applies from the day the vehicle is added to the schedule. The 30-plus days prior to



adding the vehicle becomes a noncovered period. This means that members would be responsible for the full cost of any incident during the period when the vehicle was not scheduled.

Members should submit all coverage changes (additions, deletions, corrections, etc.) via the member portal at *MCIT.org*. Members can also view or download schedules, coverage changes and instructions. (See Chapter 4, *Duties After a Loss* for details about submitting a claim.)

## TRAILERS

The definition of “auto” includes road-licensed trailers and semi-trailers. Members must schedule trailers for auto liability coverage to apply. Scheduled trailers may also carry optional physical damage coverage, including comprehensive and collision coverage, if members elect them for the units.

## TRAILERS AS CONTRACTORS EQUIPMENT

Trailers whose function is transporting attached equipment from place to place belong on the inland marine schedule and not the auto schedule. Such specialty trailers need coverage for loss or damage to both the equipment and the trailer, as is provided by inland marine coverage. When towed by a scheduled vehicle, these mobile equipment trailers meet the definition of “covered autos.”

## EXAMPLES OF TRAILERS WITH ATTACHED EQUIPMENT

- > Crack sealing
- > Message board
- > Radar speed limit
- > Aquatic invasive species decontamination

## NONMEMBER VEHICLE TOWING

When a scheduled trailer is towed by a nonmember vehicle, such as an employee’s vehicle, the insurance on the towing vehicle is primary. This applies to liability in an accident and damage caused to the trailer.

## VEHICLE ATTACHMENTS

Attached equipment is considered part of the vehicle. It is the equipment, machinery and accessories mounted to and constituting a permanent part of a vehicle, which may include external lighting, computers, video or surveillance cameras, monitors, sound-reproducing equipment, dump boxes, plows and radios.

Members should separately schedule items not attached to vehicles as inland marine. This includes all removable equipment in autos, including laptops, firearms, first-aid kits, and tools and equipment in or on trailers while being pulled by a covered auto. All coverage is subject to the appropriate deductible.

## AUTO LIABILITY COVERAGE

MCIT members that have scheduled autos receive auto liability coverage for those vehicles. Auto liability includes damages payable due to the negligent operation, maintenance or use of a vehicle. Members have no deductible for auto liability claims.

These damages are subject to tort liability caps for Minnesota municipalities: \$500,000 per claimant and \$1.5 million per occurrence per Minnesota Statutes, Chapter 466. MCIT auto liability coverage limits for scheduled autos mirror these tort caps (\$500,000/\$1.5 million). These limits apply to situations under Minnesota law.

For claims arising from out-of-state vehicle use or any cases under federal law, the tort liability caps may not apply. The MCIT auto liability limit for claims

## MOTORCYCLES

The MCIT Coverage Document follows the Minnesota no-fault statute and excludes personal injury protection (PIP) for motorcycles. However, members can purchase a policy outside of MCIT that provides medical payments coverage for member-owned motorcycles.

An employee-owned motorcycle involved in a work-related incident must rely on the employee’s personal insurance policy to cover the physical damage to the motorcycle.

not subject to Minnesota Statutes Chapter 466 is \$2 million per occurrence.

Although the Minnesota no-fault statute, also known as personal injury protection, is intended to limit the recoveries of any injured party, once he or she meets certain thresholds, the injured party may make an auto liability claim against the member. Therefore, a member could be exposed to this additional liability claim when a covered vehicle is involved and the member employee was at fault for the incident.

### PERSONAL INJURY PROTECTION (PIP)

In 1974, the Minnesota Legislature passed the Minnesota No-fault Automobile Insurance Act (Minn. Stat. Ch. 65B.41). As a result, Minnesota became a compulsory insurance state, meaning that owners of motor vehicles in the state are required to purchase insurance policies that at a minimum include personal injury protection (also called no-fault protection), liability insurance and uninsured/underinsured motorist insurance.

The statute exempts vehicles that are not required to be registered, such as squad cars and emergency response vehicles. In the event of an incident, per-

sonal injury protection helps pay the cost of the vehicle owner’s injury-related expenses, regardless of who was at fault for the accident.

The primary objective of the law is to ensure that everyone who is injured in a motor vehicle incident within the state has a source of PIP benefits. The law determines which policy is the source of the personal injury protection benefits.

MCIT provides personal injury protection at the required limits of \$20,000 for medical expenses and \$20,000 for economic loss. Higher limits are not available.

For example, a veterans services officer uses a member vehicle to drive a veteran to his or her medical appointment and is involved in a crash wherein the veteran passenger is injured. The veteran no longer drives, so does not have a personal auto policy. No personal auto coverage is available, resulting in the PIP responsibility reverting to the member vehicle in which the veteran was a passenger.

Other benefits for PIP include income loss, essential services, funeral expenses and survivors’ economic loss. Maximum payment amounts are \$500 per week for income loss and \$200 per week for replacement services expenses. The funeral expense limit is \$5,000. Injured

**CHART 1: PERSONAL INJURY PROTECTION PRIORITIES**

	MCIT WORKERS’ COMPENSATION	PERSONAL AUTO POLICY	MCIT COVERAGE FOR VEHICLES
<b>MEMBER-OWNED, REGISTERED VEHICLES</b>			
Official or Employee	1st priority	NA	2nd priority
Nonemployee Passenger	NA	1st priority	2nd priority
<b>MEMBER-OWNED BUT NOT REGISTERED VEHICLES</b>			
Official or Employee	1st priority	NA	2nd priority
Nonemployee Passenger	NA	1st priority	NA
<b>VEHICLES NOT OWNED BY MEMBER</b>			
Official or Employee	1st priority	2nd priority	NA
Nonemployee Passenger	NA	1st priority	NA



parties can still sue for damages but only after meeting certain thresholds.

*Note: MCIT coverage excludes motorcycles from personal injury protection.*

## **PIP PRIORITY**

Members often have questions regarding how PIP coordinates with other types of coverage. PIP priorities for employees and passengers vary depending on the nature of the vehicle involved in the accident (see *Chart 1: Personal Injury Protection Priorities on page 18*).

## **WORKERS' COMPENSATION**

The employer is responsible for workers' compensation coverage when the injury arises from the use of a motor vehicle and the employee is acting within the course and scope of his or her employment. After workers' compensation benefits are paid, typically no remaining PIP claim exists. If a claim does exist, coverage on the member-owned vehicle involved in the collision is the first PIP priority after workers' compensation.

Minnesota follows the majority rule in treating injuries sustained while traveling to and from work as not compensable under the "coming and going rule." There are several exceptions to the rule. Generally, however, coming and going to work is not a compensable event, but driving during the work day for work-related reasons may be compensable under the Workers' Compensation Act.

## **PIP PRIORITY FOR NONEMPLOYEE PASSENGERS**

When a nonemployee passenger is being transported in a covered member vehicle, coverage depends

on the nature of the covered member vehicle. In the case of a vehicle that is required to be registered pursuant to Minnesota Statutes, Chapter 168, the first priority for coverage for a passenger would be his or her own PIP coverage.

The passenger's own coverage is any policy that covers the injured party as an insured, such as a policy on any vehicle he or she owns or on any vehicle owned by a member of his or her household.

PIP coverage would only be available through the member's MCIT coverage in instances where the nonemployee had no other available coverage (e.g., he or she does not own a vehicle and, therefore, does not have PIP coverage).

A nonemployee passenger in a vehicle that is not required to be registered, such as a squad car or emergency response vehicle, is not entitled to the member's PIP coverage provided by MCIT.

## **INJURIES TO FAMILY MEMBER PASSENGERS IN MEMBER-OWNED VEHICLES**

Another exception to the general rule that the no-fault law applies to all parties (driver, passengers, pedestrians) injured in an auto incident is when the claim involves an employer-furnished vehicle. Members should consider the following exception carefully.

Minnesota Statutes, Section 65B.47, subdivision 2 requires that primary PIP benefits for an injured spouse or resident family member of the employee in an employer-furnished vehicle be provided by the owner of the vehicle, namely the member/employer.

## **UNINSURED/UNDERINSURED MOTORIST COVERAGE**

Mandated by statute, uninsured/underinsured motorist (UM/UIM) coverage is provided to members at the required limits of \$25,000 per person and \$50,000 aggregate. Higher limits are not available.

- > Uninsured motorist coverage responds to claims from situations when there is no insurance on the vehicle that caused the incident.
- > Underinsured motorist coverage responds when coverage on the vehicle responsible is inadequate to pay the

amount the injured party is entitled to recover. In that case, the appropriate underinsured motorist coverage would pay for the damages awarded above the bodily injury coverage available from the driver who caused the incident.

- Two examples illustrate how UM/UIM coverage works:
- > An employee driving a scheduled member vehicle is involved in a collision with another vehicle, and the driver of the other vehicle is found to be negligent (i.e., at fault). The employee receives workers' compensation benefits for his or her injuries

but seeks additional compensation for damages from the at-fault driver. If the other driver has no insurance, the MCIT uninsured motorist coverage could apply up to the limit of \$25,000.

- > An employee driving a scheduled member vehicle is involved in a collision, and the driver of the other vehicle is found to be negligent. The employee receives workers' compensation benefits for his or her injuries but seeks additional compensation for damages from the at-fault driver. If the other driver has insurance, but the limits are inadequate to pay the damages, the MCIT underinsured motorist coverage could apply up to the limit of \$25,000.

## UM/UIM COVERAGE PRIORITIES

Whose uninsured or underinsured motorist coverage responds also depends on the nature of the vehicle involved in the incident.

Two issues distinguish coverage priorities regarding uninsured and underinsured motorist coverages from personal injury protection. First, workers' compensation does not factor into the priority discussion for UM/UIM. Second, passengers are treated differently in member-owned vehicles. PIP coverage follows the person, whereas UM/UIM coverage follows the vehicle with a few exceptions.

For example, if an individual is a nonemployee covered person for PIP, he or she first looks to his or her own coverage. For UM/UIM coverage, the individual would first look to the vehicle he or she occupied (e.g., a nonemployee passenger in a member-owned vehicle would look to the member's UM/UIM coverage).

There is no UM or UIM coverage for nonemployee occupants in vehicles that are not required to be registered (e.g., squad cars, emergency response vehicles).

## CARE AND CUSTODY OF OTHERS' AUTOS

Members have various reasons to be in the care and custody of others' vehicles. Regularly, law enforcement acquires vehicles and other personal property from confiscations, forfeiture or involvement with criminal activity. This storage is not discretionary. Whereas, agricultural societies (a.k.a. fair boards) and sometimes counties may choose to offer vacant space in buildings to the public to store personal property such as boats, trailers and campers.

As dissimilar as the two situations may be, they share a common risk: responsibility for damages sustained to the property of others while in a member's care and custody. The MCIT Coverage Document specifically addresses this exposure in the garagekeepers comprehensive coverage endorsement.

This endorsement provides coverage when it is determined that the member is legally liable for damages to an auto left in the member's care (i.e., attending, parking or storing). Garagekeepers comprehensive coverage is excess coverage to any other insurance on the vehicle; therefore, the owner of the auto should carry the primary insurance coverage.

The coverage limit per occurrence under this endorsement is \$100,000 subject to a \$1,000 deductible. This is the maximum amount available for any one loss, regardless of the number of vehicles damaged.

When a member is found to be negligent and, thus, legally obligated, this endorsement covers comprehensive damage to a vehicle (land motor vehicle, trailer or boat) stored on member property. Typical comprehensive losses include fire, wind, hail, vandalism or theft.

## EXCLUSIONS TO COVERAGE

The endorsement specifically does not cover damage caused by:

- > Flood
- > Earthquake
- > Collision
- > Overturn of the auto

As such, the member should not drive any of these autos. If it is necessary for the member to operate the vehicle, it should be endorsed on the member's MCIT auto schedule.

The endorsement does not apply to contractual obligations assumed by the member. Specifically, there is no coverage for liability resulting from an agreement in which the member accepts responsibility for loss.

MCIT recommends that members not enter into an agreement that would require primary coverage for an auto that is in their care, as MCIT's garagekeepers comprehensive coverage is provided only on an excess

basis (see *Garagekeepers Risk Management Recommendations* section).

## EXPOSURES FOR LAW ENFORCEMENT

Most of the vehicles that are owned by others and are in the care and custody of law enforcement are kept in a county lot and are subject to exposures such as wind, hail, vandalism and theft. The county is responsible for the reasonable care of the auto until the owner is able to take possession of it.

Reasonable care means providing precautions against vandalism and theft, such as locking the vehicle, securing the impound lot and monitoring an open lot. Reasonable care does not mean that the member is responsible for wind or hail damage. If the auto is damaged from wind or hail while in the member's care, the owner must present the damage claim to his or her personal auto insurer, as the owner's auto insurance is primary in the event of this type of loss.

## EXPOSURES FOR VEHICLE STORAGE

When someone chooses to store his or her vehicle on a member's premises, exposures to the member include such situations for which the member could be found negligent. This might be due to a fire as a result of the member's negligence or a roof collapse because the member did not clear snow buildup from the roof. These situations could potentially result in damage to multiple units.

Depending on the circumstances, the member could be held legally responsible for the items stored in the building (i.e., others' vehicles).

## GARAGEKEEPERS RISK MANAGEMENT RECOMMENDATIONS

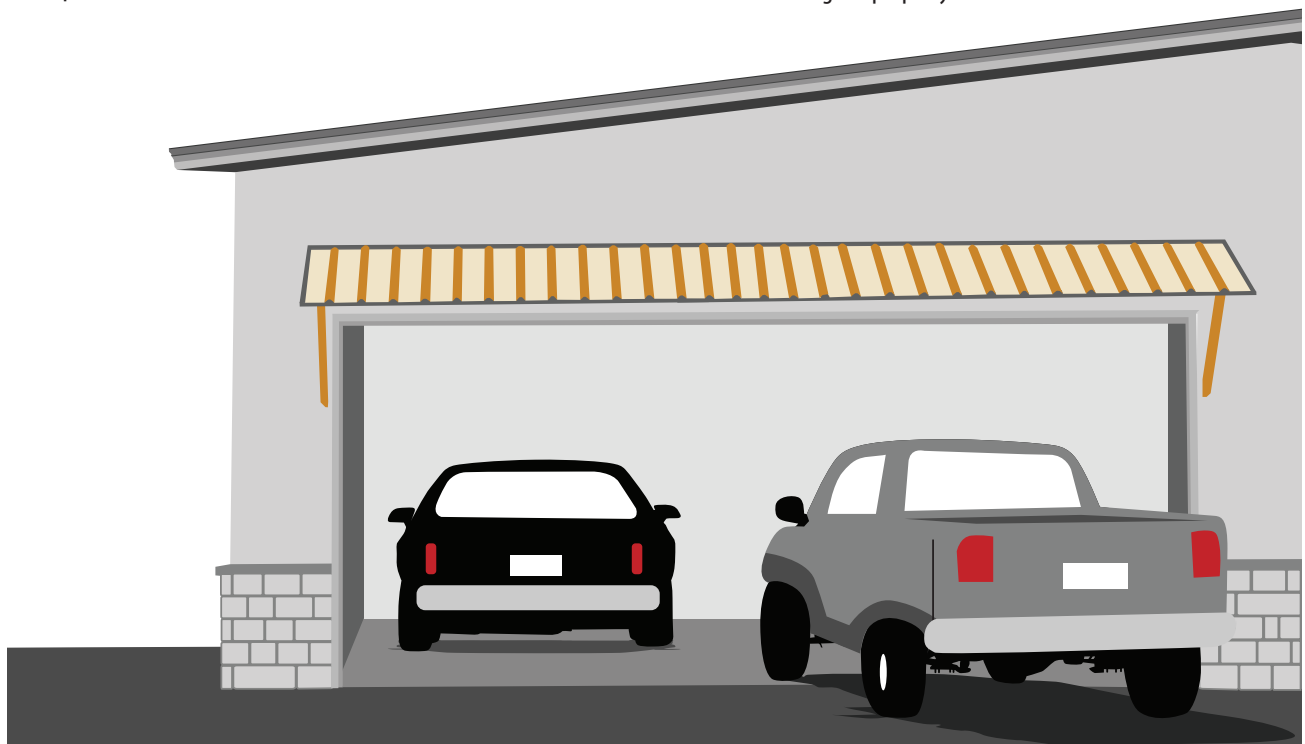
Members should not drive confiscated or stored vehicles because the garagekeepers coverage endorsement does not include coverage for collisions or auto overturns. If driven, the vehicle must be included on the member's auto schedule.

For confiscated autos, members should provide reasonable care:

- > Remove keys.
- > Keep windows rolled up at all times.
- > Keep doors locked at all times.
- > Lock equipment not permanently attached to the vehicle in the trunk.
- > Post signs such as "Off Limits to Unauthorized Personnel" or "No Trespassing" at the impound lot.
- > Keep the impound lot well lit.
- > Monitor the area on a regular basis.

For stored autos, members should:

- > Use a rental agreement with a waiver of liability when renting space to others. The rental agreement should contain a waiver that will excuse the member in advance for any fault or damage to property.



- > Not agree to a contractual obligation that accepts responsibility for loss.
- > Keep storage buildings locked and secure.

- > Inspect and maintain storage buildings, paying special attention to fire hazards and excess snow accumulation on building roofs.

## PHYSICAL DAMAGE COVERAGE

Auto physical damage coverage includes comprehensive and collision coverage for property damage to a member's vehicle and to equipment permanently attached to it (e.g., light bars, push bars, cages, plows), subject to a deductible. This is optional coverage, and members may elect comprehensive coverage, collision coverage, both coverages or no coverage on any one vehicle.

See *Vehicle Attachments* on p. 17.

### COMPREHENSIVE COVERAGE

Comprehensive coverage includes:

- > Fire
- > Windstorm
- > Theft
- > Hail
- > Vandalism
- > Malicious mischief
- > Animal strike
- > Glass breakage

For covered glass breakage, the member has the option to repair or replace the glass with MCIT approval. When glass is repaired, the deductible that applies solely to glass breakage is waived.

MCIT pays up to \$50 per day to a maximum of \$1,500 for a replacement rental vehicle because of the total theft of a covered auto with comprehensive coverage.

The member chooses the comprehensive deductible, and that same deductible applies for any vehicle in a member's fleet where the member has elected comprehensive coverage. The member may want to consider the age and value of the vehicle and how many vehicles could be damaged in one occurrence when electing comprehensive coverage and choosing a comprehensive deductible. The

standard comprehensive deductible is \$500 with other options available.

### COLLISION COVERAGE

Collision coverage is for colliding with another vehicle or other object and vehicle overturn.

The member chooses the collision deductible, and that same deductible applies for any vehicle in a member's fleet where the member has elected collision coverage. The member may want to consider the age and

value of the vehicle and how many vehicles could be damaged in one occurrence when electing collision coverage and choosing a collision deductible. The standard collision deductible is \$1,000 with other options available.

### MAXIMUM DEDUCTIBLE

When a single incident or event results in damage to more than one covered member vehicle, the total amount of all comprehensive or collision deductibles applied is limited to \$3,000.

**ROADSIDE ASSISTANCE**

MCIT coverage does not include a roadside assistance plan. These plans often provide towing, battery service, flat tire service, fuel delivery, lockout assistance and roadside mechanical breakdown repair. Service plans for a commercial fleet may be available through a third party.

### TOTAL LOSS VEHICLES

When members elect to retain a vehicle after MCIT has paid a total loss claim, the vehicle—provided it is road worthy—will only carry liability coverage. Comprehensive and collision coverages are not available for such a vehicle unless damages are repaired.



## SHARED, BORROWED AND HIRED AUTOS

Members may have a need to share, borrow or hire a vehicle. When that is done, coverage may apply differently as compared to a typical owned auto.

### SHARED AUTOS

When a member loans a scheduled auto to another party, MCIT defends and indemnifies the member for auto liability claims arising out of the vehicle's use. Coverage is subject to the terms, conditions, limitations and exclusions of the MCIT Coverage Document. In other words, if the member is sued in response to an accident involving a scheduled auto, MCIT would defend and indemnify the member. It is important to understand that for MCIT coverage to extend to the individual driver, that person must meet the definition of a "covered party."

For this purpose, "covered party" means officials, employees and volunteers of any public entity while using, with the member's permission, a covered auto on behalf of or in conjunction with the member. If the driver fails to meet that definition, he or she is responsible for responding to claims made against him or her, and must look to his or her own insurance.

Physical damage coverage, including comprehensive and collision coverage, for a scheduled auto loaned to another party remains with MCIT. If the member loans a scheduled vehicle to another MCIT member, the receiving member is provided automatic physical damage coverage when the auto is used for no more than 30 days in a calendar year. This coverage is discussed further in the Borrowed Autos section.

Although MCIT adjusts the underlying physical damage and liability claims, MCIT reserves the right to pursue subrogation (reimbursement) against the at-fault party.

### BORROWED AUTO

As noted previously, coverage follows the vehicle. Generally, when a member borrows a vehicle from another entity, the coverage on that vehicle will be the first to respond to any claim.

An MCIT coverage enhancement provides members automatic physical damage coverage for autos borrowed from another public entity without having to schedule it. This coverage applies to autos borrowed for 30 days or less and is subject to the member's standard physical damage deductibles.

The intent of this enhancement is to streamline the coverage process and assist municipalities in the common practice of sharing autos.

A borrowed auto does not include an auto in an impound lot. Autos that have been abandoned, seized, confiscated, etc. are not available for use until the forfeiture is complete and the title has been transferred to the member. MCIT recommends checking with the county attorney or other legal counsel regarding the status of the title on such vehicles.

### HIRED AUTO (SHORT-TERM RENTALS)

Hired autos are short-term rentals, not long-term leased vehicles. Hired autos need to be rented in the name of the member and scheduled by the member for physical damage and liability coverage to apply.

For hired autos or short-term rentals not in the member's name, only MCIT auto liability would apply and may be excess to other coverage. Physical damage coverage would need to be purchased from the rental company or provided by the individual renter's personal auto coverage.

## PERSONAL USE OF MEMBER-OWNED VEHICLES

Sometimes employees, volunteers or officials use a member-owned vehicle for incidental personal purposes. Members should understand the statutory authority for incidental personal use of vehicles owned by members (Minn. Stat. § 471.666), as well as how MCIT coverage responds.

Typical questions about personal use of member-owned vehicles include:

- > Are employees covered if they take a member's car to the Twin Cities for a seminar and decide to go to the Mall of America in the evening?
- > If an employee takes a member's car home the evening

before a meeting and needs to pick up his or her child at daycare, is that OK?

- > What if an employee's family member travels with him or her in a member-owned vehicle?

Although Section 471.666 provides for personal use of a member-owned vehicle that is clearly incidental to the use of the vehicle for local government business, the statute fails to define "incidental use," nor does case law provide clear guidance. Therefore, it is imperative that entities develop, implement and enforce policies that provide guidance about permissible use of member-owned vehicles, including incidental personal use.

The policy should be informed by Section 471.666 including:

- > Subdivision 2, which restricts a local government vehicle to be used only for authorized local government business, including personal use that is clearly incidental to the use of the vehicle for local government business.
- > Subdivision 3, which spells out the circumstances in which a local government vehicle may be used by an employee to travel to and from the employee's residence.
- > Subdivision 4, which states that public safety vehicles owned or leased by a political subdivision are exceptions to this section.

## COVERAGE CONSIDERATIONS

Critical to the development of a policy regarding employees' personal use of member-owned vehicles

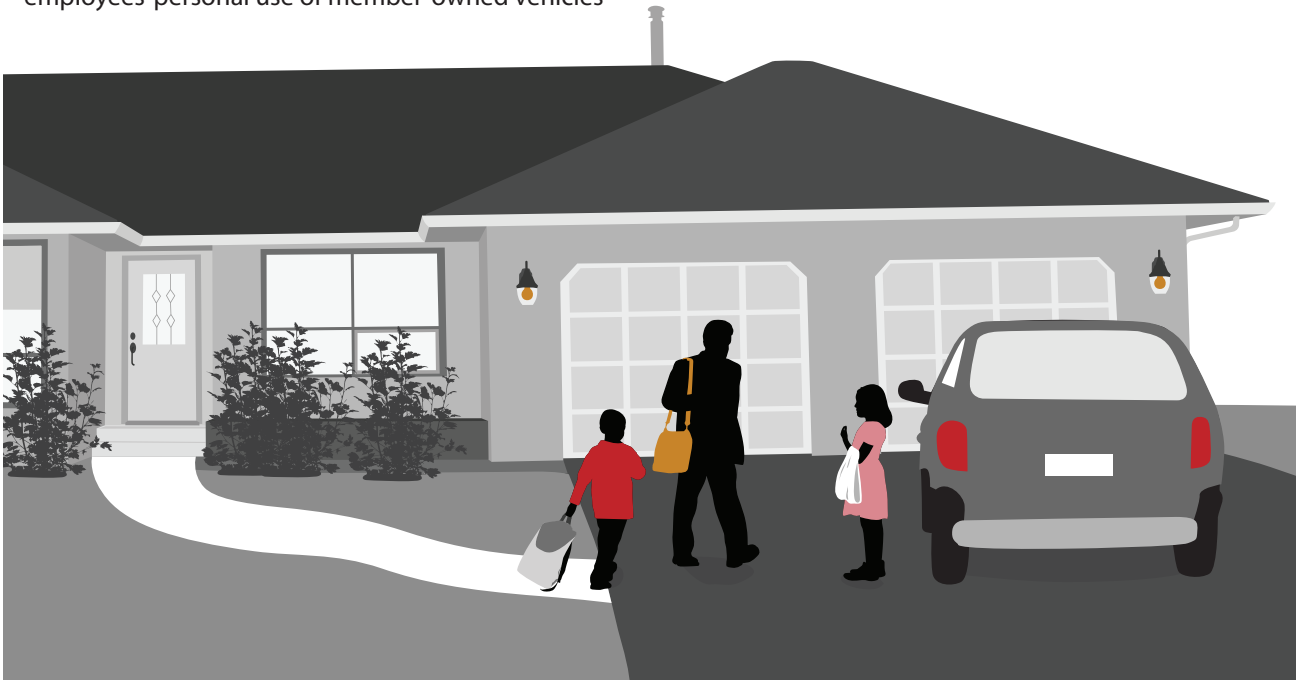
is an understanding of how MCIT's coverage responds in the event of a loss. In determining coverage, claim representatives ask:

- > What local government business was authorized?
- > Was there personal use of vehicle owned by the member?
- > Was the personal use incidental to the local government's business?

MCIT's definition of a covered party includes employees for acts within the scope of their employment and on the member's behalf. When use of the member's vehicle occurs within the statutory provisions of personal use that is clearly incidental to the local government usage and/or the member's policy, it is likely that the use will be within the MCIT coverage definition as well.

If it is determined that the employee's personal use of the vehicle is outside the statute and/or the member's policy, the employee assumes significant personal risk. When an employee does not meet the definition of a covered party, MCIT coverage does not extend to the employee. As a result, any liability arising from the employee's operation of the member-owned vehicle for personal purposes would fall to the employee and his or her personal auto insurance to cover.

Although MCIT coverage does not extend to the employee, coverage does extend to the member entity if a claim of negligence is made against the member organization.



## RISK MANAGEMENT RECOMMENDATIONS

To minimize exposures for personal use of member-owned vehicles, members should:

- > Regularly review the use of member-owned vehicles with special attention to personal use.
- > Consider adopting a policy that prohibits the personal use of member-owned vehicles. If this is not possible:

- ◆ Develop, implement, train and enforce a policy that best protects the employee and the member.
- ◆ Develop a form that clearly shows when use of a member-owned vehicle is authorized.
- > Require employees to use their personal vehicles if there is a possibility of personal use or if employees would like to have resident family members accompany them.

## PERSONAL VEHICLES USED FOR MEMBER BUSINESS

Following the basic rule of automobile coverage, which states that coverage on the vehicle is primary, the owner of the vehicle is responsible for securing the vehicle's coverage. That means the employee's personal auto insurance applies when his or her vehicle is used for a member entity's business purpose. Whether the vehicle is used by an official, employee or volunteer, the coverage on his or her vehicle pays first.

*Note: Commuting from home to the work site is not considered business use of the employee's vehicle.*

MCIT's nonowned automobile coverage could apply on an excess basis if the primary (vehicle owner's) auto coverage limits are exhausted in a large loss. A nonowned vehicle is one that the member entity does not own, lease, hire or borrow that is used in connection with the organization's business. This excess coverage applies only to liability claims, not physical damage claims.

An example: A volunteer driver causes an accident while driving his or her personal vehicle on member business that results in physical damage to the vehicle, physical damage to a third party's vehicle and/or bodily injury to the third party. The volunteer's personal auto coverage would respond first to all of these claims. Only when the personal policy limit is inadequate to cover the third-party liability claims does the member's MCIT coverage respond on an excess basis.

MCIT coverage does not provide for the deductible portion of an auto claim. Typically, member employees and volunteers who use their vehicles for a business purpose receive reimbursement for mileage. Most mileage reimbursement includes costs for both operating expenses (fuel, wear and tear) and fixed

costs (depreciation, maintenance and insurance) of a personal vehicle, following the federal Internal Revenue Service business or charitable rate and plan.

As noted, insurance is one of the fixed costs included in the mileage reimbursement rate. This is important, as again, the basic insurance rule is that coverage follows the vehicle.

### WHAT DO 'LIVERY' AND 'PUBLIC' MEAN?

"Livery" refers to goods and "public" refers to the use of a vehicle as a taxi, bus or some other form of public transportation for hire. Typically, members' volunteer drivers are not using their vehicles as taxis, buses or with a ride-sharing service. This is true when volunteers do not:

- > Collect a fee from their passengers directly.
- > Install meters in their vehicles.
- > Attach signs to their vehicles that read "taxi," "Uber" or "Lyft."

Taxis, buses, ride-sharing arrangements are distinct from a volunteer using his or her personal vehicle on the member's behalf. This means that volunteers' vehicles do not meet the definition of "public or livery conveyance" in a personal auto insurance policy, and the exclusion should not apply.

Although some personal auto insurance policies and companies may allow for some incidental nonpersonal use of personal autos as a percentage of total use, others may not. It is dependent upon what each specific insurance company may or may not allow for incidental nonpersonal use of a personal vehicle.

## VOLUNTEER DRIVERS

Volunteer drivers often use their personal vehicles to provide services for MCIT members, such as providing rides for seniors. One common concern is whether this vehicle use is excluded under the volunteers' personal auto policies.

Some insurance agents claim that the personal auto policy exclusion for "any automobile while used as a public or livery conveyance" would apply to the use of volunteers' personal autos and would preclude coverage in the event of a loss.

It is MCIT's position that a volunteer's personal auto policy should provide primary liability coverage when the owner volunteers the use of his or her vehicle. (See "What Do 'Livery' and 'Public' Mean?" for more information on page 25.)

## RISK MANAGEMENT RECOMMENDATIONS

When people drive their personal vehicles for member business purposes, the member should:

- > Confirm that drivers are appropriately licensed, such as requesting verification on their mileage reimbursement form.
- > Develop policies and procedures to verify, to the extent possible, that drivers have adequate auto insurance coverage on their vehicles, such as requesting verification on their mileage reimbursement form. Sample language: *If this expense reimbursement request includes personal automobile mileage, my submission affirms that I possess a current valid driver's license and appropriate motor vehicle insurance.*
- > Inform drivers that their personal auto coverage is primary for all possible exposures and suggest they discuss their coverage with their insurance agent.

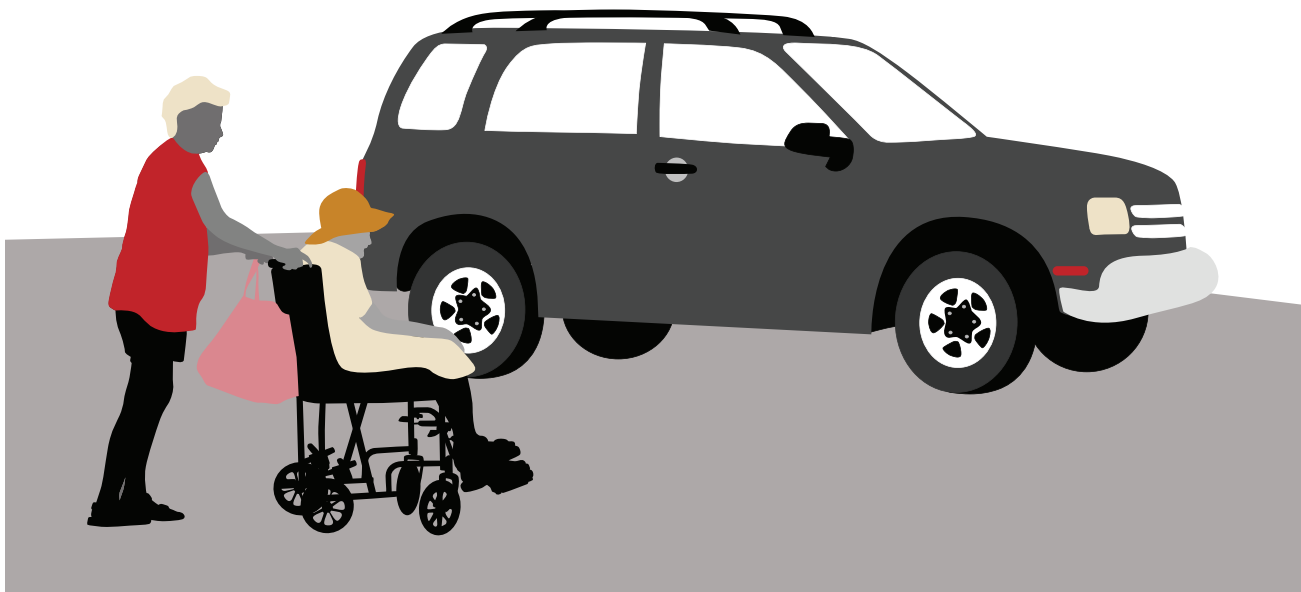
## AUTO COVERAGE EXCLUSIONS

There are important exclusions to MCIT's auto coverage. A complete list of exclusions is included in the MCIT Coverage Document.

Examples of exclusions from MCIT coverage are:

- > Assuming liability in any contract that is not a defined covered party contract.
- > Participating in, practicing for or preparing for any racing, speed or demolition contest or in any stunting activity.

- > Claims arising out of airport operations. The exclusion does not apply to the maintenance or plowing of roads or parking areas.
- > Claims arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants.





## MCIT COVERAGE FOR MOTOR VEHICLES CHECKUP

ITEM	YES	NO	ACTION ITEM
Does the organization have a vehicle use policy?			
Has the vehicle use policy been recently updated and distributed to staff?			
Does the vehicle use policy address personal use of member-owned vehicles?			
Does the organization's vehicle use policy address use of personal vehicles for member business?			
Have employees been trained about the vehicle use policy and its updates?			
Are all vehicles, including trailers, listed on the auto schedule?			
Are all vehicles intended for physical damage coverage (collision and/or comprehensive) listed with the deductible noted on the automobile schedule?			
Is a system in place to schedule all newly acquired vehicles within 30 days of acquisition?			
Do appropriate staff understand the definition of "covered auto" for the purpose of MCIT auto coverage?			
Are hired autos or short-term auto rentals (rented in the name of the member) added to the auto schedule for physical damage and/or liability coverage?			
Do staff understand who is a covered party when driving an auto for acts within the scope of their employment for or duties on behalf of the member in their official capacity?			
Are items not attached to vehicles scheduled as inland marine, miscellaneous personal property?			
When renting space to others to store their vehicles, is there a rental agreement with a waiver of liability and is proof of insurance provided by vehicle owners?			
Are law enforcement confiscated vehicles locked, secured and not driven?			
Do employees understand that permissive use of member vehicles includes anyone using a covered auto with member permission on behalf of or in conjunction with the member and that the driver is covered for that use?			

# MCIT COVERAGE FOR MOTOR VEHICLES CHECKUP

ITEM	YES	NO	ACTION ITEM
Do appropriate staff understand MCIT personal injury protection (PIP), including the limits, who is covered, which policy is primary and how the PIP protection coordinates with other types of coverage?			
Are appropriate staff aware that personal injury protection priorities for MCIT coverage for employees and passengers vary depending on the nature of the vehicle involved in the accident?			
Have employees been informed that their auto coverage is primary for use of personal vehicles for member business?			
When employees or volunteers drive their personal vehicles on behalf of member business, does the organization verify that drivers have the required personal auto insurance and possess a current driver's license?			
Do appropriate staff understand MCIT auto coverage exclusions (what is not covered)?			

# REDUCE HAZARDS, IMPROVE SAFETY

Many jobs require an employee to drive a motor vehicle. Doing so safely is an important step toward ensuring that both the employee and others occupying the roadway get to where they are going without injury, interruption or unnecessary delay.

Auto physical damage claims continue to be the most frequently reported loss by MCIT members. Training drivers to be safe does more than protect a member's fleet from physical damage; it also helps prevent injuries to employees and citizens.



## VEHICLE DESIGN AND SAFETY TECHNOLOGY

The safe operation of a motor vehicle begins with understanding how the vehicle's safety features work and how to use them properly.

Motor vehicles are manufactured with a multitude of features designed to improve the overall safe operation of the vehicle. Collision mitigation systems, lane departure sensors, anti-lock brakes and all-wheel drive traction are just some of the features that are intended to mitigate potential motor vehicle crashes. Below is a description of many safety features found on recently manufactured vehicles (not all features are present in every vehicle).

**Adaptive cruise control** automatically adjusts a vehicle's speed so as to maintain a safe distance from any other vehicles ahead of the vehicle. Drivers must remain cognizant of any changing road conditions that would make it necessary to turn off the cruise control feature to maintain control of their vehicle.

**Adaptive headlights:** Although many new vehicles are equipped with a sensor that automatically activates vehicle headlights whenever the natural light level is diminished, it is recommended to always drive with headlights engaged, regardless of weather or light conditions. Relying on the diminished natural light sensor only turns vehicle headlights on and does not activate vehicle taillights, which leaves the vehicle susceptible to being struck from behind in low-light conditions.

**All-wheel drive** can greatly improve a driver's ability to travel safely through material such as snow, sand or others that may be present on a roadway. An all-wheel drive vehicle employs a drive train that provides power to all four of a vehicle's wheels, thus giving the driver an increased ability to travel through less than ideal road conditions. Drivers must not assume an all-wheel drive vehicle is not susceptible to a loss of control when driving in these conditions and should drive with extra caution when doing so. In particular, all-wheel drive does not decrease the required stopping distance of the vehicle.

**Anti-lock braking system (ABS)** is specifically designed to prevent a vehicle's wheels from locking while braking. Drivers need to recognize that any time the vehicle's wheels (especially the front

wheels) stop rotating, the vehicle is much more susceptible to skidding and much harder to control. Applying gradual and steady pressure to the brake pedal ensures that the driver is able to bring the vehicle to a controlled stop safely.

**Automatic emergency braking** can detect an impending front-end crash and may be able to prevent it if the driver fails to react accordingly. The system automatically applies the brakes, causing it to slow or stop in an attempt to avoid the crash or reduce the severity of the impact.

**Automatic tire chains** offer the traction of a single set of conventional snow chains at the flip of a dashboard switch, without having to stop the vehicle. The switch allows compressed air to enter an air cylinder and lower the chain wheel so it contacts the inside of the tire, thereby providing the vehicle with much better traction when driving in moderate to deep snow on a roadway.

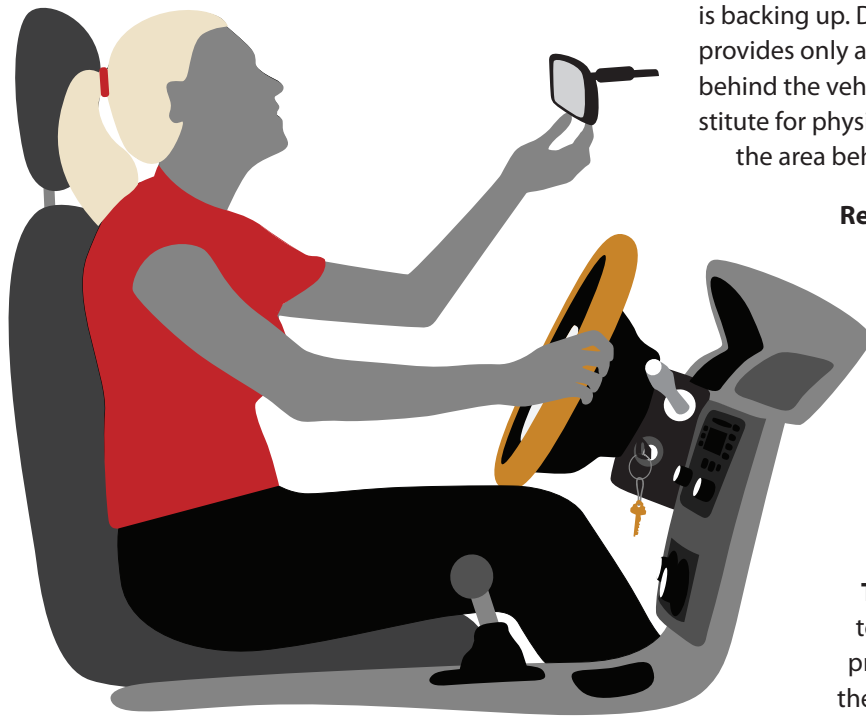
**Collision mitigation system** uses wave radar and/or a camera system to monitor what is occurring in front of, alongside or behind a vehicle. If the system senses an object is close to or may be in the travel path of the vehicle, it automatically applies slow braking in an attempt to avoid a collision with the object.

**Hill start aid** helps prevent a vehicle from unintentionally rolling downhill. The hill start aid maintains enough brake pressure on the vehicle so the driver can transition from the brake to the accelerator without having the vehicle roll. On manual transmission vehicles, this feature maintains brake pressure while the driver is releasing pressure on the transmission clutch.

**Intelligent power train management** is often found on many new trucks or other commercial vehicles. The system integrates preloaded terrain maps and GPS data into engine and transmission functions so that the vehicle can efficiently utilize its own momentum to navigate the terrain. This may make for better fuel efficiency as well. The system generally has an effective range of one mile.

**Lane departure/blind spot warning** may be an audio or visual alert, notifying the driver any time the vehicle drifts outside of its designated lane of travel or any time another vehicle enters the area adjacent to the





vehicle that cannot be viewed through the use of the rear-view mirrors. Drivers must maintain control of their vehicles at all times and prevent any unintentional or unsafe departure from their lane of travel and always look over their shoulders before changing lanes.

**Low voltage disconnect system** automatically disconnects all noncritical loads from a vehicle's battery whenever the voltage from the battery falls below an established threshold. The disconnected loads are automatically re-connected when the battery is being charged or when it is above the established voltage threshold. This process helps maintain enough battery power for a vehicle to start and continue operating.

**On-board diagnostics** capture data measuring a vehicle's performance and/or maintenance issues. This information can easily be accessed through a series of codes retrievable from the diagnostic system. Using a code reader, a vehicle repair technician often starts an assessment of any needed vehicle repairs by accessing the on-board diagnostic system and interpreting the code.

**Rear-camera/backup collision warning** is a device that allows the driver to view the area immediately behind the vehicle and provides an audio alert when an object is in the path of the vehicle when it

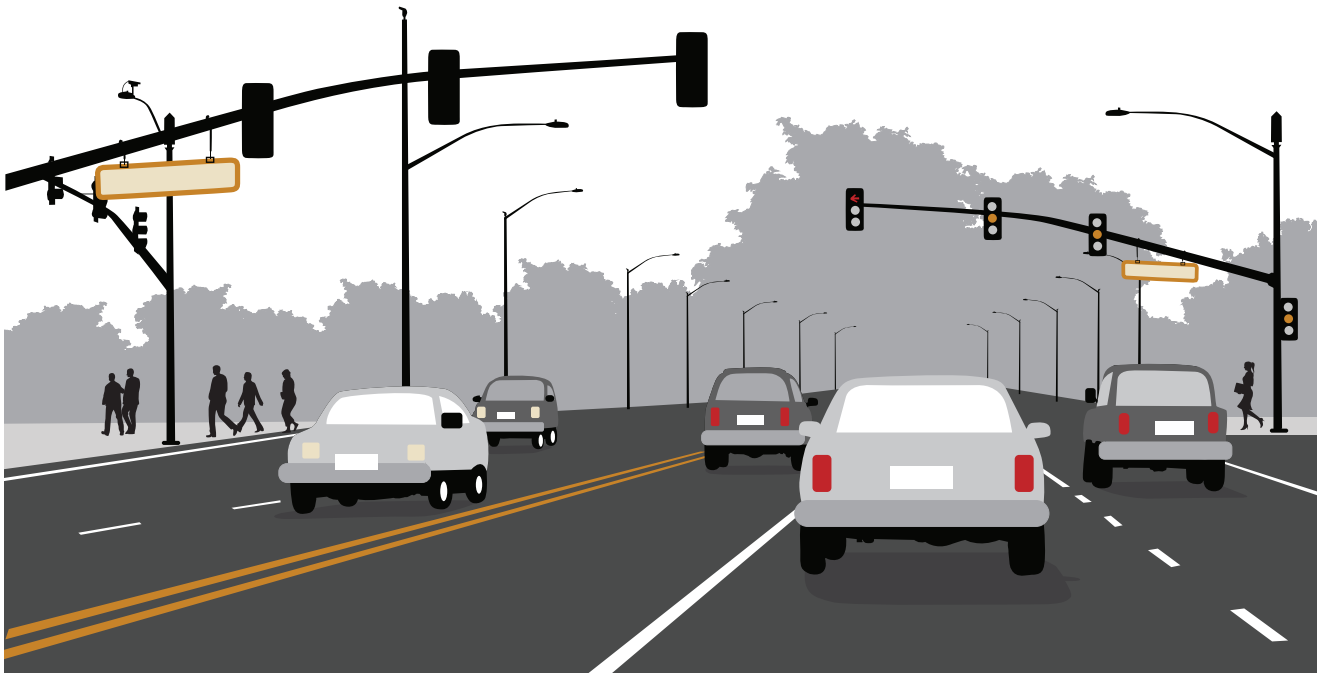
is backing up. Drivers must recognize that the camera provides only a limited and distorted view of the area behind the vehicle and should never be used as a substitute for physically walking around and inspecting the area behind the vehicle before backing up.

**Rear cross-traffic warning** assists a driver in identifying a hazard when backing up. The rear cross-traffic warning system monitors the area behind a vehicle any time the vehicle is placed in reverse. When backing, the driver is alerted if there are any other vehicles or pedestrians approaching from either the right or left that enters the vehicle's pathway.

**Tire pressure monitoring** is an automatic sensor that measures the air pressure in each of the vehicle's tires. If the air pressure in any of the tires drops 25 percent or more below the recommended level, the sensor activates the dashboard indicator light, notifying the driver to check and adjust the tire pressure accordingly.

**Traction control/electronic stability control** monitors and detects wheel slippage and vehicle stability. If any wheel slippage is detected or if the system detects one wheel is spinning faster than the others, the traction control system automatically applies the ABS to that one wheel. This ensures that the vehicle's traction is effectively maintained. When the pavement is dry and clean, a vehicle does not need traction control. The advantages of turning off traction control under normal conditions are a measurable improvement in gas mileage and a slight reduction in tire wear. The electronic stability control system monitors a vehicle's stability, loss of traction or skidding and may reduce the vehicle's engine power until the vehicle's stability and traction is regained.

**Vehicle performance monitoring/remote diagnostics** can track important driver behaviors and vehicle performance metrics that might affect areas such as a vehicle's fuel consumption and routine maintenance issues. This information can help a fleet manager or others responsible for an organization's vehicles with better and timelier decisions involving a motor vehicle's maintenance and performance and allow for adjustments if necessary.



## VEHICLE TELEMATICS

Vehicle telematics are best described as on-board safety monitoring devices. They capture information related to a driver's behavior and a vehicle's movement. For example, a vehicle's speed, acceleration rate, sudden braking, fuel consumption and other metrics are recorded. An employer may use the data to curtail unsafe driving behavior. This information can also be extremely beneficial toward determining factors leading to a motor vehicle incident (or near incident), as well as where fault may rest with the drivers involved.

Vehicle telematics can also employ GPS data to monitor routes of travel and ensure that employees are using company vehicles for business purposes or other authorized uses.

The use of vehicle telematics has proven to be extremely beneficial toward reducing unsafe driving behavior. Trials conducted in 2005 by Norwich Union determined that drivers, especially younger drivers between the ages of 18 and 23, exhibited a 20 percent lower-than-average crash rate when vehicle telematics were in use.

## VEHICLE SAFETY EQUIPMENT

The Federal Motor Carrier Safety Regulations (FMCSR) at 49 CFR 393.95 state that all commercial motor vehicles must carry specific safety equipment. This includes:

- > A fire extinguisher that has a UL rating of 5B:C or more; or two fire extinguishers with a rating of 4B:C or more.
- > Spare fuses that are needed to operate any required parts or accessories of the power unit (or engine/cab of the vehicle). At least one spare fuse is required for each type/size of fuse needed.
- > Warning devices for stopped vehicles, which could include either of the following:
  - ◆ Three bidirectional emergency reflective triangles that conform to the requirements of Federal Motor Vehicle Safety Standard No. 125, Section 571.125
  - ◆ At least six fuses or three liquid-burning flares. The vehicle must have as many additional fuses or liquid-burning flares as are necessary to satisfy the requirements of Section 392.22
- > Other warning devices may be used in addition to, but not in lieu of, the required warning devices, provided those warning devices do not decrease the effectiveness of the required warning devices.

## VEHICLE AND DRIVER READINESS

Before operating a vehicle, a driver must ensure the equipment is in good working condition and that he or she is prepared for driving. Minnesota statutes dictate a number of requirements under which drivers with commercial driver's licenses must perform. This chapter does not examine those requirements specifically, but includes best practices that all drivers should follow. *See Chapter 1 for information about required vehicle inspections.*

Members should consider developing a checklist that employees complete before driving a vehicle on company time.

### VEHICLE READINESS

#### BEFORE ENTERING VEHICLE

The driver should:

- > Walk around the car, looking for obstacles that might impede driving, particularly when backing up.
- > Ensure that tires are inflated and have good tread.
- > Make sure windows, headlights and taillights are clean, undamaged and in operating order.
- > Check under vehicle to ensure that fluids are not leaking.

#### BEFORE OPERATING VEHICLE

Drivers should:

- > Locate the following and/or know how to use:
  - ◆ Vehicle registration and/or proof of insurance
  - ◆ Headlights
  - ◆ Hazard lights
  - ◆ Windshield wiper controls
  - ◆ Mirrors
  - ◆ Windows
  - ◆ Jack and spare tire
  - ◆ Child car seat (if necessary)
  - ◆ A trip emergency kit that includes jumper cables, blanket, flashlight, food and water
- > Always check the front and back seats for loose articles. These could become a distraction or cause injury during a sudden stop or incident. Ensure materials placed on passenger seat are secure.
- > Plan the route before proceeding. Program GPS and enable hands-free options for phone if appropriate. Advise manager or co-worker of when and where he or she is going.

- > Have contact information available in case of an emergency.
- > Make the following adjustments to:
  - ◆ Seat: Arms should be at approximately a 90-degree angle at the elbow, sit up as high as driver can so his or her feet comfortably reach pedals and has a good line of sight out front window.
  - ◆ Rear-view and side mirrors.
  - ◆ Seat belt: Upper strap sits diagonally across chest and lower strap crosses upper thighs, not stomach. Ensure belt is not twisted.

### WHEN STARTING VEHICLE

The driver should:

- > Check to be sure that no warning lights are signaled.
- > Ensure parking brake is off.
- > Turn on headlights.
- > Double check surroundings.
- > Carefully proceed, obeying laws of the road.

### DRIVER READINESS

Taking a pre-trip personal inventory is just as important as the vehicle pre-trip process. A number of factors can influence driving performance. Physical, emotional and mental stressors can negatively affect concentration and reaction time. The following factors should be taken into account before a driver gets behind the wheel.

#### REST

Fatigue is one of the major contributing factors for car crashes. Tiredness can reduce a driver's awareness, slow reaction time and can cause a driver to overreact to a stressful situation. Drivers should pay attention to the following signs of fatigue and drowsy driving:

- > Difficulty focusing or keeping eyes open
- > Experiencing disconnected or wandering thoughts
- > Difficulty keeping head from nodding
- > Drifting from or jerking back to lane
- > Missing an exit or not remembering last few miles driven

Getting a good night's rest, and maintaining a healthy diet and exercise regimen are some of the ways drivers can combat fatigue and reduce the risk of nodding off behind the wheel.

## PHYSICAL AND MENTAL HEALTH

Strong emotions may dominate a driver's thoughts, which may affect concentration and quick decision making. Drivers should try to keep peace of mind when operating vehicles. If others are in the vehicle, drivers should avoid strong emotional conversations and arguments.

Physical ailments may also hinder alertness, decision-making abilities and coordination. Individuals should avoid driving with a high fever or other symptoms that may affect concentration and reaction time. Some medications, such as cold and flu treatments, may also adversely affect driving ability. Drivers should follow instructions for medications as prescribed by a physician. They should be aware of any prescribed medications that could also cause drowsiness or fatigue.

## APPROPRIATE ATTIRE

Clothing and footwear must be appropriate for road and weather conditions. Shoes with smooth soles or higher heels may slip off the pedals and create a slipping hazard when

entering/exiting the vehicle. Footwear should fit securely to the feet with no open toes or heels.

When driving in cold weather, drivers should have an appropriate coat, hat and hand coverings available in the event of a breakdown or incident. Drivers should pay attention to loose clothing, unsecured long hair and jewelry when operating specialized vehicles, as they may become caught in equipment.

## DRUGS AND/OR ALCOHOL

Use of certain drugs and overconsumption of alcohol is prohibited by law and often is restricted according to an organization's personnel policies and rules. *See the discussion about cannabis- and THC-containing products on page 11.*



## DEFENSIVE DRIVING

Defensive driving goes beyond following traffic laws and procedures. It involves anticipating situations, rather than reacting to them, and making safe, well-informed decisions based on road and environmental conditions. Defensive driving means understanding a vehicle's capabilities and limitations, and maintaining control while maneuvering it away from hazards.

## DEFENSIVE DRIVING TRAINING OPTIONS THROUGH MCIT

The defensive driving training offered to members through MCIT is designed for those employees who drive as part of their job duties on behalf of the member organization. MCIT offers two formats for defensive driving classes: on site and online. The options are provided at no charge as part of MCIT membership.

**Interactive On-site Classes:** MCIT partners with the Minnesota Safety Council for two-hour on-site

## DEFENSIVE DRIVING TRAINING AND CONTRIBUTION COSTS

Employees' completion of defensive driving courses does not directly lead to a reduction in a member's automobile coverage contribution. However fewer and less severe claims will have a positive financial impact on the overall expenses for MCIT, which helps lower member contribution rates.

Completion of defensive driving programs potentially could positively affect an individual's personal insurance rates, depending on courses taken and the insurance company's rules.

training. Each on-site session requires a minimum of 10 and a maximum of 30 participants. The programs provide students with written materials, the chance to ask questions and certificates of completion.\*

Classes have been tailored to meet members' needs:

- > Experienced Drivers/Passenger Vehicles
- > Maintenance Vehicles/Highway Departments
- > Multiple Passenger Vehicles/Vans and Buses

The curricula include discussions about:

- > Safe driving behavior, practices and strategies
- > Factors that impair safety
- > Specific issues related to city and rural driving
- > The effects of motor vehicle accidents on the employer and employee

Members should contact MCIT Internal Services at [info@mcit.org](mailto:info@mcit.org) or toll-free **1.866.547.6516** to schedule on-site classes.

MCIT pays for up to two sessions of on-site training for defensive driving per member per year. Additional sessions can be scheduled at a cost to the member. When a member requests two sessions, they must be scheduled for the same day. To cancel an on-site class, members must give five days notice or be subject to a cancellation fee.

**Online Video Training:** Online defensive driving training is available through a partnership with the Minnesota Safety Council's free streaming video service ([MinnesotaSafetyCouncil.org](http://MinnesotaSafetyCouncil.org)). This is not an interactive course. Here's how it works:

- > Select a defensive driving training video from multiple choices among the streaming videos.
- > Once chosen, assign the video to an individual viewer/employee with a special login. The individual has access to the video for one week.
- > The assigning person can send a quiz to the viewer. This can serve as both a tool to show understanding of the material and give proof the video has been watched and offer a record.

*Note: Members looking to provide general safe driving instruction and information to its employees regardless if they drive on behalf of the member for business are referred to the Minnesota Safety Council's options ([MinnesotaSafetyCouncil.org/traffic/](http://MinnesotaSafetyCouncil.org/traffic/)).*

\*Certificates of completion are issued to participants; however, members should not confuse the MCIT-sponsored sessions with the four- or eight-hour National Safety Council courses.

## DISTRACTED DRIVING

Safe driving requires full attention. It is estimated that a driver makes an average of 200 decisions during every mile he or she drives. Adding unneeded tasks decreases the ability to recognize potential hazards in the road, often causing drivers to react more slowly to traffic conditions. Distracted driving creates serious and unneeded risk.

The following prevention best practices can help minimize the risk of a vehicle collision due to distraction:

- ◆ Plan the route before leaving. Know how traffic and weather conditions might affect the drive. Leaving earlier may help get to the destination with less stress and fewer distracting thoughts.
- ◆ Finish dressing and personal grooming at home before getting on the road.
- ◆ Preset the climate control, GPS, radio or other devices; and identify the location of signals, wipers and lights in the vehicle before putting the vehicle in drive.
- ◆ Before driving, secure loose items and other distractions that could roll around in the car, creating the temptation to reach for them.
- ◆ While driving, turn off one's mobile phone. Set it on "do not disturb" mode and put the phone in a location to minimize the distraction and temptation of an incoming call or text. If phone use is required while driving, follow Minnesota statutes regarding mobile phone use while driving. See Mobile Phone Use section on page 36 for more information and Minnesota Department of Public Safety's website, [DPS.mn.gov](http://DPS.mn.gov). Although Minnesota law mandates hands-free mobile phone use in vehicles, hands-free devices are not risk-free. They still cause distractions and should be avoided. Use phones only for short, important conversations.
- ◆ Postpone complex or emotional conversations on the phone or with passengers until after arrival at the destination.
- ◆ If lost or there is a need to make changes to the route, find a safe place to pull off the road to review and reorient.



## MOBILE PHONE USE



As discussed on page 10, wireless device use is restricted for drivers. Whether prohibited by law or not, the use of mobile devices by employees while driving on the job poses several safety and legal risks for members. Mobile phones can be a distraction.

Members should not allow drivers to do the following while driving:

- > Compose, read, retrieve or send an electronic message.
- > Engage in a mobile phone call, including initiating a call, talking or listening.
  - > Participate in video calling.
  - > Access stored content (videos, audio files, images, games, software applications).

The above applies even when the driver is stopped in traffic (e.g., at a stoplight or sign).

Members may permit using the device in a hands-free or voice-activated mode to:

- > Initiate or participate in a phone call; or to initiate, compose, send or listen to an electronic message.
- > View or operate a global positioning system or navigation system.
- > Listen to audio-based content.

In addition, employers may allow device use:

- > To obtain emergency assistance to report a traffic accident, medical emergency or serious traffic hazard.

## ELECTRONIC MESSAGES

An electronic message includes (but is not limited to) the following:

- ◆ E-mail
- ◆ Text message
- ◆ Instant message
- ◆ Command or request to access a Web page
- ◆ Voice mail message
- ◆ Transmitted video content, including through video calling
- ◆ Transmitted gaming data
- ◆ Other data transmitted using a commonly recognized electronic communications protocol

Law enforcement may stop a driver unlawfully using his or her mobile phone in other-than-hands-free mode and issue a citation for the offense. Furthermore, distracted drivers can be ticketed for reckless or careless driving when their actions demonstrate a disregard for safety or for the rights of others.

In addition to potential criminal charges, an injured party could bring a civil lawsuit against a driver whose distracted driving caused an accident. A successful plaintiff could be awarded damages, including loss of wages, medical expenses, and pain and suffering.

In a serious automobile accident, drivers should be prepared to have their mobile phones requested as evidence, regardless of whether the driver was using the device at the time of the incident. Employers should remind drivers not to delete data before the phone is examined.

- > To obtain emergency assistance to prevent a crime about to be committed.
- > In the reasonable belief that the person's life or safety is in immediate danger.
- > In an authorized emergency vehicle while in the performance of official duties.

Implementing a distracted driving policy may be an appropriate risk management technique; however, as with any policy, several factors need to be considered. MCIT recommends that members ensure that policies are:

- > Reviewed for potential legal, arbitration or union issues.
- > Specific to the organization.
- > Clearly written and not overly restrictive.
- > Properly communicated and that training to employees is provided as necessary.
- > Enforced throughout the organization as appropriate for each job function.
- > Periodically reviewed and updated as needed.

In addition, employers should require that employees sign a document acknowledging receipt of the policy.

Methods to help reduce distracted driving include:

- > Looking for ways to set up the interior of vehicles to maximize vision for the driver and minimize distractions.
- > Informing and periodically training employees about the dangers of distracted driving and providing strategies to limit distractions while on the road.

## RESOURCES

MCIT members have a number of no- or low-cost resources available to them to assist in improving their employees' driving safety:

- ◆ **Defensive driving training:** See page 34 for more details.
- ◆ **Minnesota Safety Council:** All MCIT members are members of the Minnesota Safety Council as part of participation in MCIT. The Safety Council has several resources available to help members in their safe driving efforts to prevent distracted driving, including sample policies and training materials. Information is available on the organization's website at [MinnesotaSafetyCouncil.org](http://MinnesotaSafetyCouncil.org).
- ◆ **Minnesota NETS (Network of Employers for Traffic Safety):** Assists employers with implementing effective policies and workplace programs to help reduce traffic deaths and injuries within its workforce. A number of free awareness and prevention materials are available through this program, including template policies, slide show presentations, fact sheets, daily e-mail blasts, sample voice messages, fliers/posters, sample safety talks and other items. Members can access Minnesota NETS at [MinnesotaSafetyCouncil.org/nets/](http://MinnesotaSafetyCouncil.org/nets/).

## HAZARDOUS DRIVING CONDITIONS

Some driving factors such as weather and road conditions may be beyond a driver's control. However, a driver can take many steps to reduce greatly the chances of being involved in a motor vehicle incident while driving during adverse weather conditions.

### BEFORE TRAVELING

Drivers should include expected weather conditions in their travel plans and anticipate what those conditions may be for the entire route of travel. If the weather is forecast to turn inclement, drivers should consider postponing travel if possible.

Vehicle occupants should dress appropriately for the existing weather conditions. Having additional

clothing along, such as a rain jacket, gloves and winter weather gear, prepares individuals for any possible changes in weather conditions.

Vehicle occupants should wear the appropriate shoes or other footwear that will keep their feet warm and dry. Footwear should also offer good protection against potential slips (good tread and low heels).

The driver should inspect the vehicle to ensure that it is in good operating condition. This includes maintaining a full tank of gas; and adequate oil, coolant and windshield washing fluid levels. Tires should have proper air pressure and not be overly worn. All lights and turn signals should work properly.

The following items can be helpful in the event a vehicle becomes disabled or stalled:

- > Jumper cables
- > Basic tools
- > Sand, cat litter, chicken grit or other abrasive to provide more traction
- > Shovel
- > Tow rope or chain
- > Sleeping bag or blankets
- > Road flares or reflectors
- > Snow suit and heavy boots

A small weather survival kit is also a good idea to keep stored in a vehicle. The kit should include:

- > Small, sharp knife and plastic spoons

## PREVENTING SLIPS AND FALLS WHEN EXITING, ENTERING VEHICLES

When exiting a vehicle, it is important for the individual to be aware of the surrounding pavement or other ground conditions. Stepping out of a vehicle is a significant cause of slip or fall injuries. When a warm shoe or boot contacts a wet, icy, gravel or dirt roadway, a person can suffer an unexpected slip or fall.

When entering or exiting a vehicle on a potentially slippery surface, an individual should consider these best practices:

- ◆ Test footing when getting out of a vehicle by stepping lightly on the ground before putting all of one's weight onto the feet.
- ◆ Use three-points of contact with the vehicle (two hands and one foot or two feet and one hand) and maintain a secure balance.
- ◆ Be aware of areas where a vehicle has been idling for an extended period. The heat from the engine or exhaust can partially melt any ice or snow, leading it to refreeze. This can create areas of ice or other unanticipated slippery conditions.
- ◆ Always wear footwear that is appropriate for the weather conditions; ensure footwear has a good, slip-resistant tread and low heel.

- > Red bandanna or cloth to tie to the vehicle and attract attention if necessary
- > Safety pins
- > Whistle
- > Mobile phone charger
- > Plastic flashlight and spare batteries
- > Small first-aid kit
- > Candles and matches
- > Small packages of food that can be eaten hot or cold that last a long time, such as raisins, miniature candy bars, wrapped hard candies and energy or granola bars

## DRIVING IN HAZARDOUS WEATHER CONDITIONS

Driving in hazardous or inclement weather conditions requires altering the manner in which one operates a vehicle. Reducing speed, maintaining a greater following distance and gradual braking allows for better control of the vehicle and greatly reduces the chances of being involved in a motor vehicle crash.

The below driving techniques should be followed when driving in hazardous weather conditions. Drivers should:

- > Reduce speed and increase the distance between them and the vehicle(s) ahead.
- > Not use the vehicle's cruise control. Using cruise control on wet, icy or otherwise slippery roadways greatly enhances the chances of the vehicle skidding or sliding, leading to a loss of control of the vehicle by the driver.
- > Consider keeping headlights on anytime operators are driving but especially during inclement weather conditions even though headlights are required to be used from just before sunset to just after sunrise. The vehicle should be highly visible all the time to avoid being struck by another auto. Using the headlights low-beam setting when driving in rain or fog may be more effective, as the high-beam setting can bounce off of the rain or fog and actually diminish the field of view.
- > Accelerate and decelerate gradually and make any turns slowly to help maintain control of the vehicle. In the event of a skid, the driver should turn the front wheels in the direction the skid, which assists in minimizing the skid and allowing the driver to regain control of the vehicle.
- > Apply constant pressure to the brake pedal if the vehicle has anti-lock brakes and steer in the direction the driver wants to go. If the vehicle does not have anti-lock brakes, the driver should apply a gentle pumping action to the brake pedal, which prevents brakes from seizing and reduces any skidding.

- > Be aware of hydroplaning. Hydroplaning occurs when there is too much water between the tires and the road resulting in the tires losing contact with the road. If the vehicle begins to hydroplane, the driver should ease up on the accelerator and avoid applying the brakes until he or she feels the tires regaining contact with the road. Some factors that contribute to hydroplaning include vehicle speed, tire tread depth and depth of the water on the roadway.
- > Never drive onto flooded roads or into any water of which the driver does not know the precise depth. Never estimate or presume the depth of the water on a roadway. Moving water can be difficult to judge, and even shallow moving water can push or pull a vehicle into or along with it.

## STEPS AFTER A CRASH OR VEHICLE BECOMES DISABLED

Being involved in a motor vehicle incident or having a vehicle become disabled can be a troubling and stressful experience for most. Knowing what a driver is required to do by law and what he or she can do to minimize the trauma of the experience can greatly assist in a quick and satisfactory resolution to the event.

Drivers should consider the following if they are involved in a vehicle incident or the vehicle becomes disabled. The driver should:

- > Move the vehicle to the side of the roadway and out of any traffic when it is safe to do so. Drivers should use the vehicle's hazard lights (four-way signals) to alert other traffic.
  - > Avoid standing or otherwise being outside the vehicle, especially when there is traffic present. Staying inside the vehicle offers individuals the best protection against hazards associated with other traffic.
- > Immediately call 911 if anyone has been injured or any other emergency condition exists. The Good Samaritan law in Minnesota only requires that people call 911 for assistance in the event of a medical emergency and not to put themselves or others in danger or to act beyond their skills.
  - > Alert the nearest law enforcement agency to report a collision with a deer or other large animal.
  - > Remain calm:
    - ◆ If involved in a crash or collision, emergency responders will arrive quickly and assist those involved. Responding law enforcement officers will assist in obtaining information the driver may need for insurance purposes and will help in removing the vehicle from the area.
    - ◆ If the vehicle becomes disabled due to weather conditions or a mechanical failure, emergency responders will assist the driver when they can. The driver should always stay with the vehicle, not attempt to search for help.
  - > Keep the radiator and exhaust system of the vehicle clear of any snow, mud or other debris as much as possible. This allows the heating and cooling systems of the vehicle to continue to operate effectively.
  - > Maintain fresh air in the vehicle by keeping all windows slightly open. An obstructed vehicle exhaust system can cause deadly carbon monoxide to build up inside the vehicle.
  - > Stay awake and ensure any passengers remain awake. Occupants should not expect to be comfortable, as it is better to be cold and awake than to be warm and sleepy.
  - > Follow the established personal insurance or employer coverage reporting process.

## DEER-VEHICLE COLLISIONS

According to the Minnesota Department of Public Safety, from 2016 through 2020, there were more than 6,000 deer-vehicle collisions, which resulted in 18 fatalities and 1,055 injuries. Some divisions of member operations, specifically law enforcement, risk a greater exposure than other divisions, given their amount of vehicle use. With increased awareness and use of the following prevention techniques, this risk can be greatly reduced.

### PREVENTION AND BEST PRACTICES

Drivers should:

- > Be especially vigilant from late October through December when deer-vehicle collisions peak. This coincides with deer mating season and diminished daylight hours.
- > Increase awareness at dusk and dawn. This is the time when deer are most active.



## RESOURCES TO HELP REDUCE HAZARDS, IMPROVE SAFETY RELATED TO DRIVING

- ◆ **Quick Takes on Safety** ([MCIT.org/quick-takes-on-safety/](https://www.mcit.org/quick-takes-on-safety/)): Mini training scripts and employee handouts that cover a variety of vehicle and fleet topics.
- ◆ **Minnesota Safety Council** ([MinnesotaSafetyCouncil.org](https://www.minnesotasafetycouncil.org/)) and **National Safety Council** ([NSC.org](https://www.nsc.org/)): All MCIT members have a membership with the Minnesota Safety Council as part of MCIT membership.
- ◆ **Step Wisely** ([MCIT.org/step-wisely/](https://www.mcit.org/step-wisely/)), a slip, trip and fall prevention program, includes materials alerting employees to the slip hazard of entering or exiting vehicles and walking in snowy and icy parking areas.
- ◆ **Deer collision prevention materials** ([MCIT.org/deer-collision-prevention/](https://www.mcit.org/deer-collision-prevention/)): Using these materials during the peak deer movement months of October through December can be a timely reminder and help reduce deer-vehicle collisions.

- > Avoid speeding. Drivers should not drive faster than the time it would take to stop should something appear in the headlights.
- > Go slowly around blind corners or dips and hills on the road where the view ahead is limited.
- > Scan roadside ditches for deer, particularly in forested areas, near river or stream banks, or where deer crossing signs are posted.
- > Slow down when sighting a deer; deer can be unpredictable. They may jump onto the roadway.
- > Look for additional deer if one is sighted. Deer are known to travel in groups and often move in single file.
- > Keep the windshield clean.
- > Always use a seat belt, stay alert and drive sober.
- > Use high beams at night or when driving in low-light conditions while being considerate of other drivers.
- > Do not rely on car-mounted deer whistles, as they are largely ineffective at preventing deer strikes.

### WHEN A DEER STRIKE IS UNAVOIDABLE

Hitting the deer with a controlled vehicle is often the safest option. To maintain control as much as possible when hitting a deer, the driver should:

- > Keep hands firmly on the wheel.
- > Not swerve. Swerving to avoid a deer can lead to a loss of control. It can also put the vehicle into the path of oncoming traffic or a roadside object.

After hitting a deer, the driver should follow the best practices outlined in the “Steps after a Crash or Vehicle Becomes Disabled” section on page 39. The driver and any occupants should not move the deer themselves. The task may be dangerous due to traffic or the weight and awkward lifting required when moving the animal.



## INCIDENT INVESTIGATIONS

All crashes and incidents involving vehicles should be reviewed and investigated to determine the underlying causes that contributed to the incident. The information gathered in these investigations should be used to identify corrective actions that can be implemented to help prevent future incidents. The investigation should be conducted with the purpose of determining root causes; blame should not be part of the process.

### AUTOMOBILE ACCIDENT REVIEW COMMITTEES

Some organizations have established an automobile accident review committee. This committee typically meets monthly or on a regular basis and serves to determine whether specific automobile incidents were preventable.

The committee determines preventability using a number of resources it has deemed admissible, such as internal investigation reports, driver accident and police reports, witness statements and other available evidence. Disciplinary consequences typically follow a preventable accident finding.

An automobile accident review committee has some potential trappings, however. Whereas a traditional employee accident/incident investigation process attempts to deter-

mine the root cause of an incident, an automobile accident review committee generally makes a ruling on preventability. This could result in employees underreporting incidents or not being forthright in details, which does not contribute to the goal of preventing future incidents.

In addition, employees could perceive that the committee is inconsistent in application, findings and consequences. This could lead to potential morale and employment issues. Attention needs to be given to union and other legal considerations, as well as ongoing training of committee members.

If considering forming a committee, an organization's written policy should direct the committee's responsibilities and authority. A committee must be established and operated under the guidance of the human resources department and legal counsel.

All incident reviews should be conducted with the privacy of the involved employees and data practices regulations in mind. All information that could reveal the identity of these employees should be redacted before given to a committee or others to review.

## BACKING INTO INCIDENTS

MCIT receives many backing-into damage claims for vehicles. These claims often stem from a lack of awareness of obstacles behind a vehicle and from reduced rear sight lines prevalent in many law enforcement vehicles.

When adding equipment to a squad car or other vehicle, members should make sure to review sight lines and determine how visibility through the rear window will be affected with the addition(s).

Supervisors should educate employees about the following best practices when backing up a vehicle:

- > Periodically inspect back-up equipment if equipped (cameras, warning alarms) to ensure that they are in good working condition.
- > Back in to a parking space or driveway when possible to increase visibility when departing. In addition, this allows

the driver to use the most current information on the backing location, as he or she is able to view it completely upon arrival. Whenever possible, pull through a parking spot to allow for forward movement when leaving.

- > Conduct a "circle of safety" around the vehicle before getting behind the wheel whenever possible. This simply involves doing a 360-degree walk around the vehicle to ensure the area is safe before departing.
- > Ongoing refresher instruction may be required.

## REDUCE HAZARDS, IMPROVE SAFETY CHECKUP

ITEM	YES	NO	ACTION ITEM
Do all commercial vehicles carry the following equipment: <ul style="list-style-type: none"> <li>• Fire extinguisher that has a UL rating of 5B:C or equivalent?</li> <li>• Spare fuses?</li> <li>• Appropriate warning devices for stopped vehicles?</li> </ul>			
Do employees use a checklist to perform a pre-trip vehicle assessment?			
Are employees trained about driver readiness best practices (rest, health, appropriate attire, etc.)?			
Are employees trained about defensive driving techniques (either in-person or virtually)?			
Are employees trained about loss prevention best practices related to hazardous driving conditions?			
Are employees trained about steps to take after a motor vehicle incident?			
Are fleet vehicles equipped with basic weather survival kits?			
Are employees aware of and follow best practices to avoid deer-vehicle collisions?			
Do drivers walk around the vehicle to spot hazards or obstructions before departing?			
Are vehicle backup cameras and/or alarms unobstructed and functioning?			
Are mobile phones and other distractions prohibited or minimized when driving?			
Are employees trained about slip and fall prevention when entering and exiting vehicles?			

## CHAPTER 4

# DUTIES AFTER A LOSS

Member organizations and their drivers have certain obligations after an auto incident, which when met, help improve the overall outcome of the claim and reduce the time for and cost of a claim resolution.

Per the MCIT Coverage Document, after a motor vehicle incident involving a covered auto, members must:

- > Promptly notify MCIT about the incident. This notice should include:
  - ◆ How, when and where the incident occurred.
  - ◆ Names, addresses and phone numbers of any injured persons or witnesses.
- > Protect the vehicle from further damage.
- > Allow MCIT to inspect the vehicle.



Members also must notify police if a covered auto is stolen. Members are advised not to assume any obligation, make any payment nor incur any expense without MCIT consent, unless at their own cost. (See Chapter 3 for safety steps to take after a crash or when a vehicle becomes disabled).

Should a claim or suit be brought against a member for the incident, other duties may become necessary, such as:

- > Sending copies of demands, notices, summons and legal papers to MCIT.

- > Authorizing MCIT to obtain medical records.
- > Submitting to questioning (under oath if necessary).
- > Identifying and preserving information, documentation and evidence.
- > Cooperating with MCIT.

These and other duties in the event of an occurrence can be found in the MCIT Coverage Document.

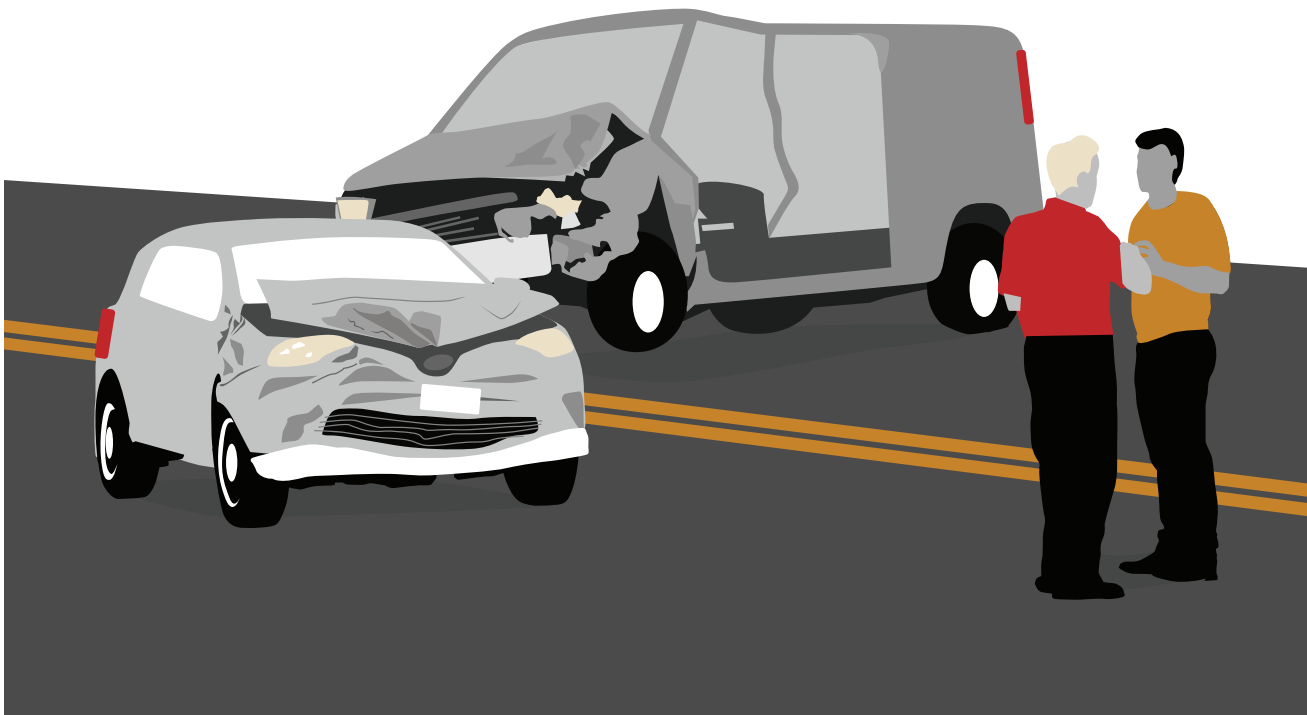
## STEPS AFTER AN AUTO INCIDENT

First after a collision or crash, the driver should follow the safety steps outlined in Chapter 3. He or she must not leave the scene of the incident. Although not required by Minnesota law, MCIT recommends that in all situations, the driver contact law enforcement to file a report.

Next, the drivers of affected vehicles must exchange information. When exchanging details, the member's driver should:

- > Not admit fault, as additional information may prove otherwise.

- > Avoid making any statements that could be misunderstood, misinterpreted or used against the member.
- > Obtain key information from other drivers involved in the incident: names, addresses, phone numbers, driver's license numbers, license plate numbers and auto insurance information.
- > Whenever possible, gather contact information for witnesses.
- > Photograph the scene of the incident if possible, including damage and conditions (see "Take Photos of the Scene" on page 45 for more details).



- > Note the date, time and conditions. Individuals should not rely on law enforcement to gather this information. Also drivers should not hinder first responders in an effort to gather this information. Obtaining medical attention and the safety of the accident scene should take precedence .
- > Pay attention to and record what other parties say at the scene. People are more willing to talk about their situation, how the incident happened, who was at fault and so on immediately after an incident.
- > Be cognizant of the organization's policy about responding to the press.

MCIT provides vehicle incident kits where drivers can note insurance information and details from others involved in the incident. If an employee hits an unoccupied vehicle, he or she must attempt to locate the owner and follow the procedures outlined above. If unsuccessful, the driver may leave a note, indicating his or her name and contact information and a brief description of the incident.

Lastly, the member should report the incident to MCIT (see page 47) if it involves a member-owned vehicle or an employee was injured in the incident. This may involve an internal process where the driver reports the incident to a supervisor, who then begins the claim process.

For situations involving a personal vehicle used on behalf of the member, the driver must notify his or her own auto insurance.

## VEHICLE INCIDENT KIT

The vehicle incident kit includes a vinyl pocket in which fit:

- ◆ **Incident record forms:** These can be completed at an auto incident scene to detail the situation.
- ◆ **The auto coverage identification card:** This fits in the pocket that holds the incident record forms.
- ◆ **Vehicle incident courtesy cards:** These should be completed by the member's driver and given to the other driver involved in the incident.

The kit is easily kept in a vehicle's glove compartment. Drivers are encouraged to supplement details on the incident record form with photos from the scene if possible.

When a vehicle is removed from a member's fleet, the incident vehicle kit should be moved to the replacement vehicle and the coverage identification card updated for the new vehicle.

Members can order vehicle incident kits by contacting MCIT at [info@mcit.org](mailto:info@mcit.org) or 1.866.547.6516.

The image shows three forms from the vehicle incident kit. At the top is the 'Incident Record Form' with fields for 'Vehicle', 'Investigating Officer', 'Date', 'Location', 'Report #', and 'Driver #'. Below it is the 'AUTO COVERAGE IDENTIFICATION CARD MINNESOTA' with columns for 'DOCUMENT NUMBER', 'EFFECTIVE DATE', and 'EXPIRATION DATE'. It includes fields for 'YEAR', 'MAKE/MODEL', 'VEHICLE IDENTIFICATION NUMBER', 'AGENCY ISSUING CARD', 'MINNESOTA COURTESY INTERGOVERNMENTAL', 'COVERAGE LIABILITY', 'THU/ST', 'CONFIDENTIAL', 'X', 'MEMBER', and 'DEPARTMENT'. At the bottom is the 'Vehicle Incident Courtesy Card' with instructions: 'In the event of an incident: ● Complete with your information ● Give to other driver'. It has fields for 'Date/Time', 'Driver's Name', 'Driver's License #', and 'Vehicle Plate #'.

## TAKE PHOTOS OF THE SCENE

An important area where members can assist in the auto incident investigation is taking photos of the scene soon after an incident. Members should educate employees about taking incident photos. Using a smart phone makes it easy to capture images at the scene.

The driver should take photos of:

- ◆ Vehicles involved, including from all corners of all vehicles (even if no damage) and pictures of license plates.
- ◆ Driver's license and insurance information of the other driver(s). It can be easier to take photos than to write everything down.

- ◆ Road, traffic controls, etc., especially if weather or other changing conditions are factors. It is helpful to preserve exactly what the scene looked like when the incident occurred.

It also helps MCIT's process when the member determines whether any vehicle or traffic camera video or video surveillance from nearby surrounding buildings is available. If necessary, the member may need to return to the scene to take additional photos as part of the investigation/claim submission process.



## CLAIMS FOR DAMAGE TO OTHERS' WINDSHIELDS

Large vehicles, particularly plows and dump trucks, are often faulted for broken windshields. Sometimes the claim has merit, such as when a truck is improperly loaded or cleaned before transporting. In many other situations, the claim is unfounded, but a member's vehicle is blamed for the windshield damage nonetheless.

It is important for members to understand and follow Minnesota law on the topic, and take steps to minimize potential issues related to hauling materials. Members should also keep good records to assist in the defense of any liability property damage claims.

### THE LAW

Minnesota law provides that vehicles must be loaded in a way that will prevent spillage (Minn. Stat. §169.81, subd. 5). A vehicle cannot be driven or moved on any highway unless the vehicle's load is secure enough to prevent its dropping, sifting, leaking, blowing or otherwise escaping.

However, a vehicle or combination of vehicles may drop sand to secure traction.

Minnesota Statutes, Section 169.81, subdivision 5b applies to specific materials:

- > The driver of a vehicle transporting sand, gravel, aggregate, dirt, lime rock, silica or similar material must ensure that the cargo compartment of the vehicle is securely covered in these two situations:
  - ◆ The vertical distance from the top of an exterior wall of the cargo compartment to the load, when measured downward along the inside surface of the wall, is less than 6 inches.
  - ◆ The horizontal distance from the top of an exterior wall of the cargo compartment to the load is less than 2 feet.
- > The driver must not operate a vehicle to transport sand, gravel, aggregate, dirt, lime rock, silica or similar material in or on any part of the vehicle other than in the cargo container. The driver must clean the vehicle of loose material before the vehicle is moved on a roadway following loading or unloading.

### MUD FLAPS

Mud flap requirements are addressed under Section 169.733, subdivision 1. Every truck, truck-tractor, trailer, semitrailer, pole trailer and rear-end dump truck must have wheel flaps or other suitable protection above and behind the rearmost wheels of the vehicle or combination of vehicles.

As much as is feasible, the flaps must prevent the wheels from throwing dirt, water or other materials on the windshields of following vehicles. Also, the flaps must be at least as wide as the tires they protect and have a ground clearance of no more than 9 inches when the vehicle is empty.

### RISK MANAGEMENT RECOMMENDATIONS

With the statutes in mind and as a loss control best practice, drivers should take all reasonable steps to clean the vehicle of loose material before the vehicle is moved on a road or highway, or following loading or unloading. Trucks should carry an easily accessible broom for clearing away any loose sand or gravel that may fly off the truck as it travels down the road.

Drivers should be familiar with the law regarding load covers so that they are used when appropriate. Regular vehicle inspections should ensure that required wheel flaps are in place and in good repair, and vehicles are clean and free of loose debris that could fly off.

When a claim is made, the member should gather as much information about the incident from the claimant as possible. Details such as a specific description of the vehicle, where it was located and what time the incident occurred can be critical. Other important details are a description of who was driving the vehicle and the cause of the incident (i.e., did something come from the cargo container or the bumper of the vehicle, or was something kicked up from the road?).

Using member records and logs, it is important to determine, when possible, where the member vehicle was at the time of the alleged loss, who was driving it, from where it was coming, where it was going, what it was doing at the time and what materials it was carrying.

No loss prevention program will eliminate the occasional rock being kicked up by a tire. That can

happen simply as a matter of circumstance. Even when a claim involves a member vehicle, it may be defended as an unavoidable occurrence if the member can demonstrate that appropriate precautions were taken.

These precautions include inspecting the vehicle before it enters the roadway, clearing the vehicle of

any loose materials, ensuring the load (if applicable) was secure and placement of effective wheel guards. Liability claims for broken windshields will never completely be eliminated. However, a good loss prevention program and good record keeping address many of these issues and go a long way toward reducing exposure and making claims without merit easier to defend.

## REPORTING AUTOMOBILE INCIDENTS

Members' auto claims must be promptly submitted via the member portal at *MCIT.org*. The online claim reporting system allows members to upload related documentation, such as photographs, witness statements, diagrams, etc. Maximizing the effectiveness of the claim process requires that members and MCIT staff work together.

Members' quick recording and reporting of basic incident facts are critical to a claim investigation. The closer to the incident date that parties involved record their recollection of events, the fresher it is in their minds. The more time passes, the more difficult it becomes for individuals involved to remember events that occurred many days or weeks earlier.

Members should always report losses and incidents to MCIT promptly. This works to protect the member's coverage rights and helps ensure that the member, its employees or other claimants are paid in a timely manner when warranted.



When members have an incident response plan and it is followed by staff, the amount of time it takes for an incident and important information to be communicated to appropriate individuals and MCIT is lessened.

### INCIDENT RESPONSE PLAN

An auto incident response plan ensures that pertinent information is gathered and reported quickly, that evidence is secured and other safety issues are addressed once an incident occurs. Components of an automobile incident response plan include:

- > Responsibilities and duties of the driver (*see Steps After an Auto Incident section and Chapter 3 for more details*).
- > Internal reporting procedures for the driver and his or her supervisor.
- > Procedures for reporting the incident to MCIT (the responsible party, timeliness of notice, steps to submit, etc.).
- > Procedures to safeguard evidence and vehicle(s).

Some of these steps may involve the skills and expertise of outside parties.

Members should gather and submit to MCIT basic and additional supporting information as it becomes available, such as police reports, damage estimates, witness statements, photos, member logs and fact sheets, which can help in a factual investigation. Those responsible for submitting loss information to MCIT can upload this documentation through the online member portal.

### RESOURCE

- ◆ **Specific auto claim questions:**  
Members should contact the MCIT property/casualty claims manager at 1.866.547.6516.

## CONTROL COSTS OF AUTO CLAIMS

The financial cost of repairing a damaged auto can be significant, and a member's operations can be hindered when one of its vehicles is damaged. To help save money, limit the cost of deductibles and ensure that damaged vehicles get back into service quickly, a member can take a few easy steps.

### REPORT ALL AUTO CLAIMS QUICKLY

By reporting all vehicle claims to MCIT promptly, regardless of the amount of damage, the claim representative is better able to control the costs of the claim and help expedite the repair process.

### PROVIDE PHOTOS OF VEHICLE WITH REPAIR ESTIMATE

Receiving photos along with the repair estimate helps decrease response time, especially for minor damage that may not need an independent adjuster's inspection. Repair shops are usually willing to provide photos to a member with the estimate when asked. Shop photos also tend to be more thorough than other photos.

### THINK AHEAD ABOUT SCHEDULING REPAIRS

Depending on the extent and location of damage, the MCIT claim representative may hire an independent adjuster in advance so that the adjuster can plan to inspect the vehicle soon after it reaches the body shop. This ensures an efficient process, reducing delays for the member.

The independent adjuster and body shop inspect the vehicle together and

create an estimate that is more cost-effective and accurate. This greatly reduces the likelihood that additional damage is discovered later, and it ensures that the vehicle is repaired and returned to the member as quickly as possible.

### USE ALTERNATIVE AFTERMARKET PARTS

Aftermarket parts are replacement parts that were not manufactured by the vehicle's maker. These parts are often 10 percent to 20 percent less expensive than new original equipment manufacturer (OEM) parts. Certified Automotive Parts Association (CAPA) certifies that aftermarket parts fit, perform, last and are as safe as the OEM parts they replace.

As an example, a county submitted a claim for the replacement of a windshield. The cost to replace that windshield with new OEM glass was more than \$700. However, the quote to replace that windshield with aftermarket glass was only \$400. The county had a \$500 comprehensive deductible, so utilizing the aftermarket glass reduced the total cost of the claim by \$300 and saved the member \$100.

Additionally, it is often less expensive to use a dedicated glass repair service to replace glass.

When MCIT thinks it may be appropriate to use aftermarket parts, MCIT asks for the member's authorization.



Per Minnesota statute, MCIT must have the member's permission to utilize aftermarket parts.

More information about aftermarket parts is available at [CAPACertified.org](http://CAPACertified.org).

### CONSIDER SEVERITY WHEN MOVING A DAMAGED VEHICLE

If a damaged vehicle is taken to a repair facility or private tow yard immediately after an incident and the vehicle is later determined to be a total loss, the repair facility or tow yard normally charges a daily storage fee. That storage rate could be upwards of \$25-\$50 per day. Those dollars add up quickly.

If the vehicle has sustained significant damage, and the member believes it may be a total loss and has a facility where the vehicle may be stored for a short period at no cost, it may be worthwhile to have the vehicle towed to that facility rather than to a repair shop or tow yard.

If it is determined later that the vehicle is repairable, it can be towed to a repair shop at that time, and the costs of towing the vehicle would be covered by Minnesota Counties Intergovernmental Trust.

## MCIT CLAIMS TEAM AND PROCESS

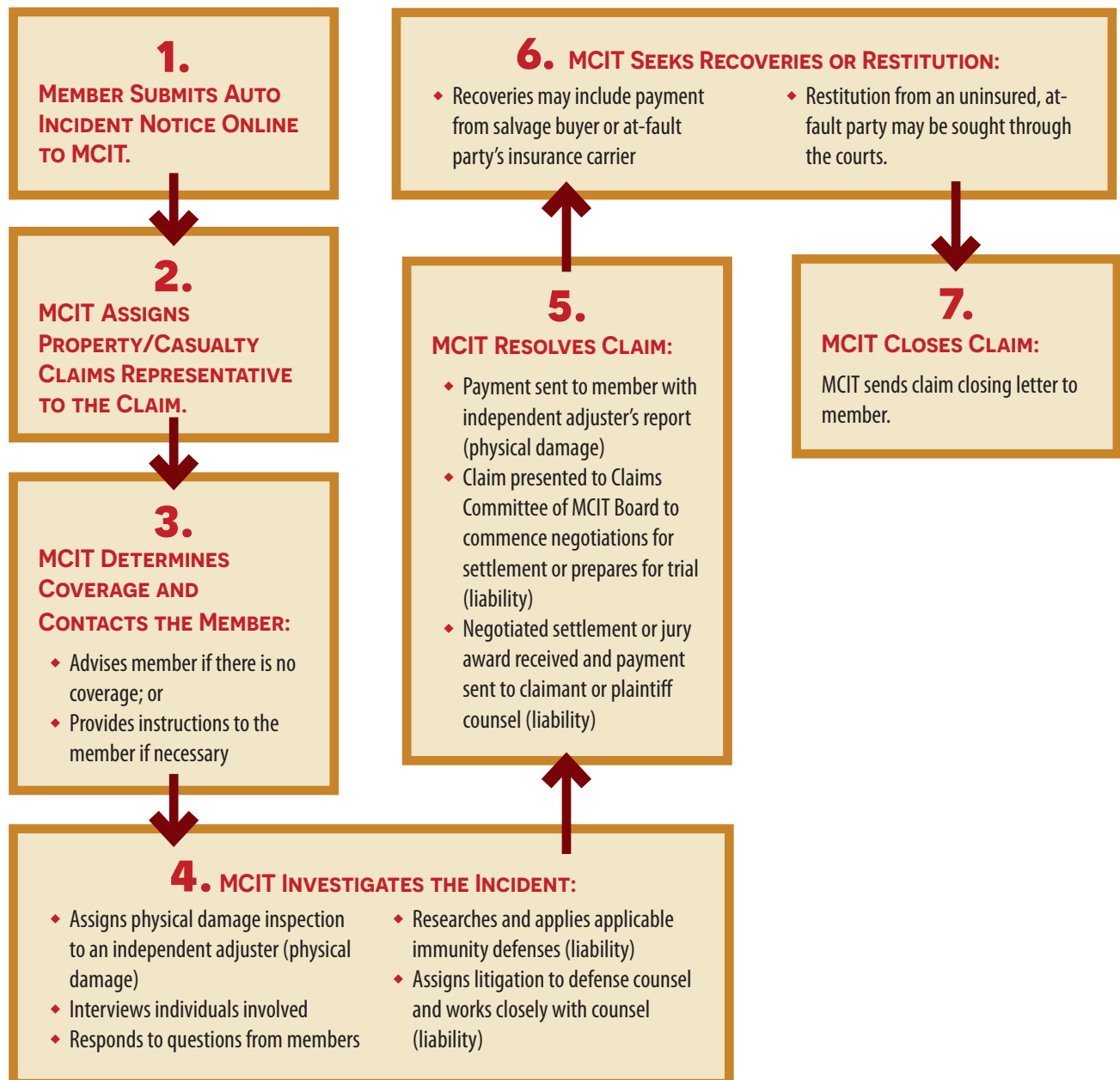
The MCIT claims team is comprised of individuals with extensive claims handling experience for public entities in Minnesota. They are skilled professionals who help members manage every part of the process from initial investigation to final resolution.

As needed, the MCIT claims staff also works with outside attorneys who are experienced in handling cases for public entities.

The MCIT Auto Claim Process diagram shows the MCIT claim handling steps once MCIT receives an auto claim.

Members' assistance throughout the claim process can help MCIT resolve claims more quickly, accurately and fairly. This includes providing MCIT claims staff with thorough and detailed information as quickly as possible.

### MCIT AUTO CLAIM PROCESS



## DUTIES AFTER A LOSS CHECKUP

ITEM	YES	NO	ACTION ITEM
<p>After a motor vehicle incident involving a covered auto, does the organization:</p> <ul style="list-style-type: none"> <li>• Promptly notify MCIT about the incident?</li> <li>• Protect the vehicle from further damage?</li> <li>• Allow an MCIT-assigned independent adjuster to inspect the vehicle if necessary?</li> </ul>			
Does the organization notify law enforcement if a covered auto is stolen?			
Are all vehicle incidents reported to law enforcement?			
Does the organization avoid assuming any obligation, making any payment or incurring any expense without MCIT consent, unless at its own cost, after a vehicle incident?			
After a vehicle incident, does the member cooperate with and assist MCIT and provide all information, documentation and evidence as required?			
After a vehicle incident, does the driver follow required steps for sharing and gathering information at the scene?			
Does the organization collect information and evidence related to vehicle incidents as soon as possible after the incident?			
Does the organization have and follow a vehicle incident response plan?			
Are appropriate staff trained about the vehicle incident response plan?			
Are quality photos of auto damage along with a reasonable itemized repair estimate submitted to MCIT?			
When a vehicle is drivable, are auto repairs scheduled with a shop and is MCIT notified a few days ahead?			
Does the organization approve the use of aftermarket parts in auto repairs?			
Are damaged vehicles that are likely a total loss towed to the organization's facility rather than an auto shop or tow yard?			