



Rideshares & Personal Auto Policies

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PERSONAL AUTO POLICIES

General Coverage

Personal auto policies generally include insuring agreement language that provides coverage for the following:

We will pay damages for "bodily injury" or "property damage" for which any "insured" becomes legally responsible because of an auto accident. Damages include prejudgment interest awarded against the "insured".



PERSONAL AUTO POLICIES

Exclusions

Rideshare Exclusion:

For that "insured's" liability arising out of the ownership or operation of a vehicle while it is being used as a public or livery conveyance. This Exclusion (A.5.) does not apply to a share the-expense car pool.



PERSONAL AUTO POLICIES

Rideshare Exclusion

LEGAL DEFINITION:

- The term “livery conveyance” means a vehicle used indiscriminately in transporting the public and not limited to certain persons and particular occasions or governed by special terms.
- It refers to the transporting of people or goods for hire, including conveyance by taxi service, motor carrier, or delivery service.



PERSONAL AUTO POLICIES

Rideshare Exclusion

“RIDESHARE” DEFINITION:

- * (1) of or relating to the sharing of rides or transportation, especially among commuters: The agency was set up to devise a ridesharing program.
- * (2) of or relating to a car service with which a person uses a smartphone app to arrange a ride in a usually privately owned vehicle.



PERSONAL AUTO POLICIES

Rideshare Exclusion

Unlike traditional taxi and limousine services, ride-sharing companies insist that they are not common carriers. Instead, they assert that the law should regard them as providers of an “interactive computer service.” Essentially, much like dating sites, they are simply match-making services that connect independent drivers with potential riders.

Some services go further, by arguing that it is, fundamentally, “a noncommercial enterprise.”



PERSONAL AUTO POLICIES

Rideshare Exclusion

An insured's personal auto policy does not cover liability for any damages for which the insured becomes liable when the covered vehicle is being used as a rideshare, i.e. for Uber or Lyft, at the time of the accident



PERSONAL AUTO POLICIES

Rideshare Exclusion

Most personal auto policies exclude coverage for any vehicle while it is being used “as a livery conveyance.”

Representatives of several of the nation’s largest auto insurers confirmed their current standard personal lines policies would exclude coverage for commercial use.



PERSONAL AUTO POLICIES

Rideshare Exclusion

- * The “Uber-type” program operators cover the driver and vehicle only while actually transporting a passenger; hence, there is a gap in coverage during the time the driver has the app on seeking a passenger and when the passenger is actually in the vehicle.
- * Regulations that are required for taxicab owners and operators are not applicable to Uber drivers. This is another aspect of a personal auto claim that must be considered should an injury occur to the passenger, named insured or a third party.



PERSONAL AUTO POLICIES

Rideshare Exclusion

- * It is customary for personal auto policies to cover vehicles used in carpools
- * The rideshare exclusion specifically states: “This Exclusion (A.5.) does not apply to a share the-expense car pool.”
- * However, auto insurers limit the definition of car-pooling and car-sharing arrangements to ones in which costs are shared by the driver and passengers. The driver must not earn a profit on the ride



PERSONAL AUTO POLICIES

Rideshare Exclusion

Unlike taxi drivers, rideshare drivers are not employees of the company they are driving for. In most cases, Uber and Lyft do not claim legal responsibility for their drivers.



PERSONAL AUTO POLICIES

Exclusions

Business Use Exclusion:

Maintaining or using any vehicle while that "insured" is employed or otherwise engaged in any "business" (other than farming or ranching) not described in Exclusion A.6.

This Exclusion (A.7.) does not apply to the maintenance or use of a:

- a. Private passenger auto;
- b. Pickup or van; or
- c. "Trailer" used with a vehicle described in a. or b. above.



PERSONAL AUTO POLICIES

Business Use Exclusion

A personal auto policy is designed to cover *only* the personal use of a private-passenger vehicle, not the commercial use of a vehicle. This commercial use exclusion extends beyond ride-sharing. It includes any business use of a private-passenger vehicle.



PERSONAL AUTO POLICIES

Business Use Exclusion

Under the Business Use Exclusion, coverage is determined based on the use of the vehicle at the time of the accident



PERSONAL AUTO POLICIES

Business Use Exclusion

“BUSINESS USE” DEFINITION

- * The “automobile business” is defined as including “selling, repairing, servicing, storing or parking vehicles designed for use mainly on public highways.”
- * In other words, when one takes a vehicle to a dealer for repairs or servicing and the mechanic “test drives” the auto, coverage does not follow the vehicle. The dealer must have their own coverage. Likewise, when the insured goes to a fancy restaurant and the valet parking attendant goes joyriding while the insured has dinner, there is no coverage for the valet attendant.



PERSONAL AUTO POLICIES

Allstate Ins. Co. v. Zellars

- * An employee of a pipe line business was on the road transporting equipment. After some equipment was picked up, the employee returned to his hotel. He then went into town for dinner when the accident occurred.
- * The driver sued his personal auto insurance (Allstate) for coverage
- * The personal auto policy excluded coverage where the use of the vehicle occurred while the insured was employed or engaged in any business or occupation.



PERSONAL AUTO POLICIES

Allstate Ins. Co. v. Zellars

- * The personal auto insurer argued that the employer was charged with the primary duty to defend its driver while driving the employer's truck to the cafe, with the employer's permission, after his wages had ceased, and that the business use exclusion applied
- * The court determined that the “other insurance” provision was not applicable since there was no other “valid and collectible” insurance from the employer at that time
- * The trial court determined that the personal auto insurer had a duty to defend and indemnify the driver



PERSONAL AUTO POLICIES

Allstate Ins. Co. v. Zellars

- * The jury found that the driver was not using the employer's truck in his business or occupation at the time of the accident
- * The Supreme Court of Texas also concluded that coverage applied. In doing so, the Court focused on the use of the vehicle at the time of the accident.
- * Even though the vehicle was clearly a commercial vehicle, the Court determined that the use was of a personal nature at the time of the accident and therefore the exclusion did not apply.



PERSONAL AUTO POLICIES

Business Use Exclusion

Rideshare drivers are not employees, but rather independent contractors acting as commercial drivers.

Most personal auto insurance policies prohibit coverage for commercial use, unless the insurer knows about it in advance. Usually, the driver's personal auto insurance policy is invalidated or canceled if the insurer discovers that the driver is driving for a ridesharing program.



PERSONAL AUTO POLICIES

Esurance Prop. & Cas. Ins. Co. v. Johnson

Identical Business Use Exclusion language:

“This language disclaims coverage when the insured is using ‘any vehicle’ while ‘engaged in any business’ unless the insured first discloses the ‘business use of a covered auto.’ In other words, this exception excludes coverage when the insured uses a vehicle for business purposes without first informing plaintiff of the intent to do so.”

Esurance Prop. & Cas. Ins. Co. v. Johnson, No. 16-CV-11880, 2017 WL 4225444, at *3 (E.D. Mich. Sept. 22, 2017).



PERSONAL AUTO POLICIES

Esurance Prop. & Cas. Ins. Co. v. Johnson

The court determined that the exclusion does not apply to business use of a covered auto by an insured that has been disclosed to the insurer, and for which all applicable premiums have been paid.

This language disclaims coverage when the insured is using “any vehicle” while “engaged in any business” unless the insured first discloses the “business use of a covered auto.” In other words, this exception excludes coverage when the insured uses a vehicle for business purposes without first informing the carrier of his/her intent to do so.



PERSONAL AUTO POLICIES

Business Use Exclusion

- * In particular, the great weight of cases determining whether an insured is operating in furtherance of his/her “business interests” hold that any vehicle operating while under dispatch is operating in furtherance of the named insured’s business interests.
- * Furthermore, operations that are not directly related to the pick-up or delivery of a load of cargo can still be considered to be in furtherance of an insured’s business interests.



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