



## Liability guide: Know your risks on the road

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Last year I wrote about the liability issues for those who vacation in private homes by asking, “With short-term home rentals, who’s liable?” But when it comes to ground transportation, there are many more questions about both safety and liability.

Whether it’s driving your own car; renting a car; riding in a bus, shuttle or taxi; or ridesharing via Uber or Lyft, your risks and responsibilities can vary considerably, especially because state and local laws can differ in protecting consumers.

### Anticipating unseen risks

Most of us focus on booking our long-haul travel — flights, cruises, scenic train tours — and often overlook the patchwork quilt that comprises ground transportation. We’re serviced by a combination of paid and unpaid providers: rental cars, courtesy buses, vans, taxis and rideshares, and we can be vulnerable from both the safety and financial perspectives.

According to the U.S. Department of Transportation (DOT), domestic highway fatalities continue to far outnumber deaths by other modes such as travel by air, rail and water. The DOT further breaks it down by noting there were 6.1 million automobile accidents and 69,000 bus accidents in 2014.

There’s no question about the known dangers. But it’s tougher to prepare for unexpected dangers. AAA lists a variety of scenarios that can affect travelers on the road, including liability lawsuits, traveling abroad, rental car coverage, pets in an accident and uninsured motorist coverage.

For example, summer travel often involves towing a boat or other type of trailer. AutoInsurance.org offers detailed information on what may or may not be covered when an accident involves not just a towing vehicle, but a trailer or boat. In many cases standard auto liability policies will not be adequate and state coverage minimums may not be satisfactory, so understanding policy declarations is critical.

Here are some other common scenarios:

### Rental cars

Most consumers are forced to consider liability when picking up a rental car, since agents often employ hard sell techniques for coverage options. As I noted here with “Rental car companies emulate airlines, embrace added fees,” collision damage waiver (CDW) and similar forms of

coverage are “the greatest rental revenue generators of them all.” Another surprise fee to many renters is a cost for certain roadside services, well worth clarifying.

The Federal Trade Commission (FTC) offers detailed advice about rental waivers and states many drivers already may have adequate coverage through one or more other channels:

- \* auto insurance policies
- \* homeowners policies
- \* employer’s policies
- \* motor clubs
- \* charge cards

However, that word “adequate” most definitely is in the eye of the beholder. Since CDW is not traditional insurance, but rather a waiver that prevents rental firms from collecting deductibles, some drivers opt for it. This can be beneficial if you’re involved in convoluted circumstances, such as a group pile-up or an accident that isn’t your fault but the other driver is underinsured/uninsured.

In severe cases, the FTC notes that if you don’t have outside coverage and fail to purchase such waivers, you could be liable for the full value of the car. But the Better Business Bureau says that in some locales — such as New York State — CDW is illegal and rental firms may not charge you more than \$100 for loss or damage.

Don’t forget there can be long lists of exclusions that could nullify rental waivers or insurance. These include driving while intoxicated, driving negligently, driving on unpaved roads, and driving out of the state or country stipulated in the rental agreement. It’s also important to inspect the vehicle before you sign for it, since you could be held liable for damage done previously if it’s not documented in writing.

In 2014, I wrote “How safe is your rental car?” to address the dangers of renting a vehicle that’s been flagged by a manufacturer recall yet remains in service. Thankfully, legislation in place since last year has made it illegal for firms to rent cars operating with an unresolved recall.

## **Taxis**

The good news is many municipalities require commercial insurance policies for licensed taxi operators.

But a report last November by Cars.com found passengers hailing taxis in the U.S. face odds as high as 40% that their cab hasn’t completed federally mandated recall repairs, “with issues ranging from the benign to the potentially catastrophic.” In New York City, for example, a spot check of 200 for-hire vehicles found 27% had outstanding recalls. The Cars.com safety advice includes: “Sit in the backseat, belt yourself in and pay attention to what your driver is doing.”

According to the DOT, 28 states have no laws requiring seat belts in all seating positions, and New Hampshire has no seat belt law at all for adults. This is important, particularly because a report from the Centers for Disease Control and Prevention in 2012 found seat belt use in rear seats was at least 10 percentage points lower than up front, with 26% of adult non-driver deaths reported in the back. In a detailed report on this topic, the National Transportation Safety Board recommended greater education through taxi, limo and rideshare companies on backseat seat belt usage.

## **Ridesharing**

Although the FTC has been proactive on rental issues, in 2014 the agency actually questioned whether a proposed Chicago ordinance would “impose elevated insurance requirements that don’t appear to be connected to any evidence of risk to riders compared to commercial taxis.” Subsequently, however, both Uber and Lyft announced new liability policies that provide up to \$1 million in coverage for damages.

Some sources, such as a study by the libertarian Cato Institute, posit “there is little evidence that the sharing economy services are more dangerous than traditional taxis.” Even so, questions remain about “transportation network companies.” For example, that Cars.com investigation last November found neither Lyft nor Uber specifically requires its drivers to provide proof of having addressed federal vehicle recalls.

As for rideshare liability, The Insurance Information Institute (III) offers detailed advice about the nuances of coverage.

## **Buses/motorcoaches/shuttles**

For those concerned about the safety records of bus operators, both major lines and so-called Chinatown buses, the Federal Motor Carrier Safety Administration provides an online Company Safety Records database. In addition, the American Bus Association offers assistance on safety questions and the United Motorcoach Association provides information on the DOT’s ratings of charter bus lines.

Large interstate commercial and charter buses aren’t the only sources of potential liability issues. The DOT legally defines “for hire motor carriers” as commercial motor vehicles transporting passengers that assess a fee, “monetary or otherwise.” So this definition not only includes buses but also hotel transporters, rental car shuttles, etc. It’s a rare vacation that doesn’t include some form of ground transportation operated by someone else, whether it’s at an airport, hotel, resort, sightseeing venue, theme park or cruise dock.

Undoubtedly few travelers gave much thought to the safety records of such conveyances, until a recent spate of serious and even deadly events. Unfortunately, such incidents are making headlines rather frequently, such as the 2013 accident in Atlanta that injured 16, involving a hotel shuttle driver not licensed to drive commercial vehicles. Or an even more serious crash in Desert Hot Springs, Calif., last year that killed 16 on a casino bus.

This can be a rather murky aspect of liability since some rides are provided directly by facilities such as hotels or resorts, while others are subcontracted. If you’re worried about coverage onboard buses or shuttles, inquire about additional policies.

## **Who pays?**

No one wants to think about worst cases, particularly when planning a vacation. But what if you’re injured by another driver, or the driver of your taxi, rideshare, bus or shuttle? What if you’re to blame? Waiting until you’re in an accident usually is too late to consider your options. Here’s how to plan for a few likely scenarios.

- Car rentals. If you’re at fault in an accident while driving a rental car, your responsibilities can vary, based on your prior coverage and the decisions you make when booking. According to the

Federal Trade Commission, you may have adequate coverage through one or more sources: 1) your own auto insurance policy (call your agent if you're uncertain), 2) your employer's insurance policy, 3) your credit card policy (again, check the fine print in advance), and/or 4) your motor club membership. Be aware most collision damage waiver/loss damage waiver products are not traditional insurance policies, but waivers that absolve you from financial responsibility for a lost or damaged rental vehicle only. As for your exposure when you're at fault, the Insurance Information Institute notes state laws require rental firms to provide each state's minimum amount of liability insurance. Also, an "umbrella liability policy" from your own insurance agent could give you additional coverage; if you don't own a car, non-owner liability policies can cover you in rented or borrowed vehicles.

As for medical expenses, you and your family may already be covered by your own health insurance policy; what's more, the III advises personal injury protection (PIP) from your own auto insurance policy will "likely" cover medical costs. If not, purchasing personal accident insurance from the rental firm may make sense.

- Taxis. The amount of coverage cab companies must provide on behalf of their passengers varies from state to state (and sometimes within certain cities), with most states requiring between \$250,000 and \$500,000 of coverage per accident. For example, in New York City — home of the nation's largest taxi fleet, with more than 13,000 medallioned yellow cabs alone — the law requires \$300,000 per event and \$100,000 per person; minimums increase for vehicles with higher passenger capacities.

Depending on your personal auto coverage, you may be able to draw from your own policy to cover medical costs. Nolo advises you should file a claim against the taxi company's insurer; in a no-fault insurance state, you should file a personal injury protection or no-fault claim for medical bills and lost earnings.

- Rideshares. In recent years the two biggest players in the field have improved their insurance requirements. According to Lyft's insurance policy, all drivers throughout the United States carry policies that cover occupants — including passengers — for up to \$1 million per accident. This limit also applies to accidents in which the other driver is uninsured/underinsured. Uber has a similar policy, also with \$1 million coverage per accident. If you're concerned about other companies, inquire before you ride.

- Buses/shuttles. With some exceptions, The Federal Motor Carrier Safety Administration requires minimum insurance coverage for passengers on for-hire carriers compensated "either directly or indirectly." The law states the following minimums for such coverage:

- \$1,500,000 for vehicles transporting 15 or less
- \$5,000,000 for vehicles transporting 16 or more

As with taxis, additional minimum requirements can vary by state and sometimes by municipality. New York City's law specifies coverage levels for 15- and 20-passenger taxis, luxury limousines, commuter vans and paratransit vehicles often used for handicapped riders. In states without specific rules for certain vehicles, you may need to seek compensation from individual drivers and/or the companies or organizations operating the vehicles.

## **Helpful hints**

- Some forms of travel insurance may cover certain expenses, such as Travel Guard's Assistance Service. But it's all about the fine print, so check before buying.
- When you're being driven by someone you don't know, there are dangers beyond road safety. Consider reviewing these 10 Tips on Taxi Safety for Travelers.