

ARTICLES

Insurance & Independent Contractors—Proceed with Caution!

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Since the advent of the Internet, today's generation of buyers desires immediate gratification when it comes to their purchases. Companies such as Amazon, Zaps, eBay, and even Wal-Mart have all taken notice and have started test marketing same-day deliveries. As this increasingly becomes the preferred method of doing business, there is a growing trend of Independent "Owners"/Contractors attempting to strike out on their own for their chance at financial independence. However, with every good opportunity comes risk, and the following article provides some need-to-know information as it relates to insurance, the Independent Contractor, and the companies who may utilize them.



Insurance for the Independent Contractor

For many reasons, being an IC delivery driver is a great opportunity. There is nothing like being self-employed, but that opportunity does not come without some risk. From our experience, we have found many IC's do not carefully consider the inherent exposure created by their occupation, nor do they adequately address these exposures and protect themselves with something as simple and as cost effective as an insurance policy(s). Here's what any prospective IC driver needs to consider as risks:

Auto Liability Exposure

So you're going to use your vehicle every day to perform deliveries. What's the problem? After all, you have a personal auto insurance policy (PAP). Traditionally, there has been a "gray" area as to whether a PAP will adequately respond to a claim should you be involved in an accident while working as an IC. Through the years, we have seen these situations play out both favorably and unfavorably. There is one absolute way to protect yourself when it comes to the auto exposure and that is

by procuring a commercial auto liability policy for your vehicle. This coverage should respond in the event of a claim that occurs while working as an IC. We recommend \$1,000,000 Combined Single Limit (CSL) liability to provide the best protection. Now, if you are a “master contractor” and contract with other IC’s, it should be noted that further auto liability protection is needed in the form of Hired/Non-Owned Auto Liability coverage with \$1,000,000 limits.

Keeping Cargo Safe

Handling cargo for customers is part of the job. Each delivery can be an adventure on handling something new and ultimately it is your responsibility to get the goods delivered safe and sound, and in one piece. But what would happen if the cargo is damaged or stolen? That is where a properly written Motor Truck Cargo insurance policy can protect you and pay to replace the customers’ goods. Standard limits offered by carriers are anywhere between \$10,000 and \$25,000 per loss and can easily be increased should you need protection for higher valued cargo. Again, it’s important to recognize that if you are acting as a “master contractor,” you have added exposure and should purchase additional protection for customers’ goods via courier/dishonesty bonding coverage with limits equal to your cargo coverage.

General Liability

Often times, this coverage is overlooked and not purchased by an IC. The fact is that it’s an important policy to provide protection for your delivery business. Whether contracting directly with a customer or providing services to a contracting courier service, General Liability addresses some key exposures. Such as damaging a customer’s premises or injuring a third party. Depending on the circumstances, and the state you’re operating within, commercial auto insurance may or may not provide coverage for these exposures, so having a General Liability policy will help to ensure you have coverage one way or the other. Standard GL policy limits are \$1,000,000 per occurrence and \$2,000,000 general aggregate. The coverage is not expensive and provides other necessary, albeit seldom utilized, business coverage. So making it part of your insurance program would be strongly advised.

Injuries While Working

What happens if you're injured while working as an IC? In most instances, your IC agreement with the contracting courier company dictates that you are responsible for Workers Compensation (WC) coverage for this very reason. A WC policy can provide you with coverage and benefits for your injury so you don't have to risk being injured and uncovered. An alternative solution to WC would be to procure Occupational-Accident (Occ-Acc) coverage for you. This policy provides limited coverage and benefits (as compared to WC), and can be more cost effective. For more information on Occ-Acc, we'd encourage you to visit the website for the Association for Delivery Drivers (www.a4dd.org) who offers such coverage if you become a member.

Insurance for the Contracting Carrier

You employ the services of an IC (or several ICs) to perform deliveries for you and while there are many advantages to this business model, it is critical to remember that outsourcing the delivery work does not outsource all the risk to your company.

So what insurance should you require from an IC? In short, everything you read in the first part of this article should be obtained (and monitored) from any IC you engage. The requirements should be clearly laid out in your IC agreement for both parties to review, agree upon, and execute. But the enforcement of the requirements is equally as important as the articulation of them. If you fail to collect proof of required coverage and monitor it for updates (such as when policies renew throughout the year) you are providing yourself little protection in a claim. Often, your corporate insurance policies require you to be doing this and failure to do so can negate coverage. It makes little sense not to have a system in place to perform this task.

Speaking of protection, what types of insurance should a company utilizing ICs have? In actuality, your insurance program may not differ too greatly from the ICs coverage, but there are some important items to have included.

Auto

If you rely solely on IC drivers using their own equipment, then a Hired/Non-Owned Auto Liability policy for \$1,000,000 is needed. It will provide protection to you, as the courier company, should

you be named in a claim or legal proceeding as a result of an auto claim involving your IC driver. It provides no coverage to an IC driver, but does provide your company with legal defense and indemnification in the claim, should you need it. If you also have a fleet of vehicles, this can sometimes be included on the insurance policy you have for your fleet.

Cargo/Bonding

Much like the IC, you have a responsibility to keep customers' goods safe and the use of a good Motor Truck Cargo insurance policy is often needed. Your use of IC's also necessitates the need for courier/dishonesty bonding which will protect against first party theft and allow you to say your drivers are "bonded." Policy limits (in both cases) should be the same and should be high enough to cover the value of replacing customers' goods. It should be noted that if you require cargo insurance from your IC's, you could increase your own cargo deductible to match the policy limit they are providing, without duplicating or sacrificing coverage, and potentially saving premium dollars. Your attorney and insurance broker should be consulted before making this change.

General Liability

Once again, you likely need the same standard limits (\$1,000,000 per occurrence and \$2,000,000 general aggregate) as the IC's. But it's possible your landlord or customers may ask for increased limits, which are available. This coverage will provide protection to you, as the courier company, should you be named in a claim or legal proceeding as a result of non-auto or non-cargo related claim. It provides no coverage to an IC, but does provide your company with legal defense and indemnification in the claim, should you need it.

WC

More than likely you have employees and therefore, need to have WC coverage in place as dictated by state statutes. However, procuring WC coverage for your W-2 employees can be a tricky proposition without proof of WC from each of your IC's. There are avenues to consider involving WC for your IC's that you manage or a combination of WC and Occ-Acc policies. This insurance coverage is complex and could be an article in and of itself, so we would simply stress that you need to speak to

an insurance professional who understands both your industry and the WC world to make sure you have exactly what you need without mistakenly putting yourself in position for a poor surprise.

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As we've outlined above, there are important coverage issues that need to be addressed when either operating as an Independent Contractor or running a business and choosing to utilize them as part of your operation. The world of fast paced consumerism has only heightened this issue and continues to further open the door to more business as well as potential liabilities. It's imperative that you proceed with caution, when handling these issues and consult your insurance professional to insure you are properly addressing the risks associated with these opportunities.

*Risk Strategies Transportation consults with over 1400 Courier companies nationwide and specializes in Risk Management solutions for the Courier/Sameday Transportation industry.

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