

## **Is It Legal for You to Obtain Your Employee's MVR?**

Employers frequently require their workers to drive on company business. For some firms, driving may be the major part of employees' jobs. Other companies may need salespeople or inspectors to drive as an incidental but necessary part of their jobs. Even companies that perform most of their work in an office will need employees to drive at least occasionally to projects, conferences, or job sites. Employers who require their employees to do driving at all take the risk that their workers will become involved in automobile accidents. These incidents subject employers to medical bills, the costs of repairing or replacing damaged vehicles and property, and potential lawsuits from third parties.

Employers can get a fair picture of how employees drive by obtaining copies of their employees' motor vehicle records (MVR). Employers who decide to do obtain their employees' MVRs need to be aware of the boundaries set by federal and state laws.

Congress enacted the Driver's Privacy Protection Act (DPPA) of 1994 to restrict access to personal information that may appear on an individual's driving record. Personal information is anything that can identify a person, such as a name, photograph, Social Security number, phone number, address, or similar information. The law allows a motor vehicle bureau to release the record, including personal information, to anyone who has a permissible use. There are 14 permissible uses; three are relevant to employers. A bureau may disclose information for use in the normal course of business to verify the accuracy of personal information a person provided to the business and, if the information is inaccurate, to obtain accurate information to prevent fraud. Also, an employer may obtain information relating to the holder of a commercial driver's license. Any person may obtain another's MVR if he can show a written consent by the other party for its release.

The federal Fair Credit Reporting Act (FCRA) is more restrictive. This law governs the release of consumer reports, a term that includes driving records, credit reports, credit scores, and others. It provides that a consumer reporting agency (such as Equifax) may not release a consumer record to an employer for employment purposes unless the consumer has given written permission. Therefore, a messenger service that wants to look at prospective employee Bob's driving record before hiring him must get Bob's written permission first. The consumer reporting agency must give Bob a Summary of Consumer Rights. If the employer takes an adverse action against Bob (doesn't hire him, declines to promote him, etc.) at least in part because of the information in his report, it must give him a Notice of Adverse Action, advising him of the information that affected the decision and the name of the reporting agency.

Some employers ask their insurance agents to obtain employees' driving records. The DPPA permits agents to order these records for insurance purposes and allows a person with a permissible use to share information with another person with a permissible use. The FCRA, however, imposes on the agent the same obligations that a consumer reporting agency would have. In addition, some vendors forbid agents from sharing the records.

Businesses have a legitimate need for some information about how their employees drive. Employees have an equally legitimate concern about who will see their information and how it will be used. These laws attempt to balance business needs and employee privacy rights. All employers should familiarize themselves with these laws and state laws that may restrict their access to personal information.