

IT'S HAPPY MOTORING, UNTIL THERE'S A CLAIM

AAIS uses affirmative statements to provide incidental vehicle coverage in personal liability forms

The United States is fast approaching the achievement of a dubious distinction: Sometime soon—if it hasn't happened already—there will be more vehicles than people in this country.

Last year, the U.S. Department of Transportation reported one milestone on the way to that distinction. In August, the bureau reported that, for the first time, there were more registered motor vehicles than people to drive them in the average U.S. household.

The department estimated that there were approximately 204 million vehicles and 191 million drivers in U.S. households. Those figures do not count nearly 100 million Americans who are not drivers, but they also leave out tens of thousands of commercial vehicles, as well as recreational vehicles, farm tractors, and mobile equipment that do not require vehicle registration.

Phenomenal growth in the number and variety of vehicles has created a challenge for personal lines insurers. The distinction between auto liability and other forms of personal liability has long been one of the bedrock principles of personal lines insurance. In the 1990s, however, home owners insurers increasingly found themselves forced to defend claims of bodily injury and property damage arising from the use of vehicles on public

roads. Insurers found that individuals were increasingly using unregistered vehicles to make short trips typically made by car.

As farms consolidated, farmers were driving tractors with trailers and equipment longer distances over public roads to far-flung fields. Senior citizens were using golf carts to drive in and around retirement communities. Young adults were using all-terrain vehicles on, well, all terrain—on-road and off-road, public and private.

In response, insurers and their advisory organizations have taken care in their personal liability policy forms to distinguish among types of vehicles and how they are used in order to establish what type of liability is insured and what is not.

Same substance, different form

In most respects, the standardized homeowners policy forms developed by the American Association of Insurance Services (AAIS) and the Insurance Services Office (ISO) have similar provisions for both property and liability coverage. Although the intent is much the same, the two national property/casualty advisory organizations take somewhat different approaches to structuring the provisions that grant liability coverage related to vehicles.

Under the ISO 2000 homeowners forms, coverage for liability for certain uses of vehicles is provided through a series of exceptions to an exclusion for "motor vehicle liability." Those exceptions are themselves subject to restrictions written into the provisions. The current AAIS Homeowners, Farmowners, and Personal/Premises Liability forms provide essentially the same coverage and exclusions; but the coverage is established by affirmative statements, subject to restrictions similar to those in the ISO forms.

Whereas the ISO forms establish blanket definitions of "motor vehicle" and "motor vehicle



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Motorized Vehicles
(entire shaded area includes all self-propelled land or amphibious vehicles)

Motor Vehicles (vehicles designed for public roads or subject to vehicle registration)	Recreational Motor Vehicles (vehicles used for leisure which are not motor vehicles)	Other vehicles (inferred, not defined; includes vehicles used to service premises, e.g., riding mowers)
Includes attached trailers and equipment	Includes attached trailers and equipment	Includes trailers

liability” to encompass virtually all types of land vehicles, AAIS forms establish different categories of vehicles. *(Please note: To make this article easier to read, policy provisions have been summarized and hypothetical situations presented in a simplified manner. No conclusion can be made about an AAIS form’s application to a particular claim without referencing policy provisions in light of the particular facts of a claim.)*

- “Motorized vehicle” defines a universal set, encompassing any “self-propelled land or amphibious vehicle regardless of method of surface contact.” The definition of “motorized vehicle” expressly excludes vehicles such as power wheelchairs, designed

for the handicapped and not required to be licensed.

- “Motor vehicle,” then, refers to a subset of motorized vehicles that encompasses those that are subject to motor vehicle registration or designed for use on public roads, plus attached trailers, machinery, and equipment.

- “Recreational motor vehicle” refers to a separate subset that includes vehicles, other than “motor vehicles,” designed or used for leisure, plus attached trailers and equipment.

The AAIS vehicle categories are shown in the illustration to the left.

As do the ISO forms, AAIS personal liability forms include a blanket exclusion for bodily injury

and property damage arising from the ownership, use, loaning, loading/unloading, etc., of what AAIS calls “motorized vehicles.” Coverage for liability imposed by law related to the use of a motorized vehicle is also excluded.

In place of a list of detailed exceptions to the exclusions, however, AAIS forms simply state an exception for coverage provided by an “Incidental Motorized Vehicle or Watercraft Coverage,” plus the standard exception for bodily injury to a domestic employee of the insured.

It is as incidental coverages that the AAIS forms provide affirmative coverage for liability arising from certain vehicles in certain situations. The purpose of this construction—a blanket exclusion with exceptions for incidental coverage—is to make it clear that protection is provided only for incidental vehicle exposures without creating open-ended exposure to liability claims arising from vehicles.

This becomes clearer as one reviews the incidental coverages in the AAIS forms (see the illustration below). In summary, AAIS incidental liability coverage for motorized vehicles pays for liability for bodily injury or property damage that:

- Occurs on the insured premises and involves use of any type of motorized vehicle not required to be registered;

Incidental Vehicle Liability Coverage Provided in AAIS Homeowners, Farmowners, and Personal/Premises Liability Forms

Cause of bodily injury or property damage	Covered under AAIS personal liability form	Not covered under AAIS personal liability form
Motor vehicle (not including trailers)	When on insured premises if not subject to registration	Off insured premises or subject to registration
Motorized vehicle used primarily to service premises	On or off premises only if designed for use off public roads	When used off-premises for recreation
Recreational motor vehicle	On insured premises or if not owned by insured	When off insured premises and owned by insured
Golf cart	When used for golfing purposes or on insured premises	If used for non-golfing purposes away from premises
Trailer	When unattached or when attached to motorized vehicle not a motor vehicle (tractor)	When attached to a motor vehicle

- Involves use of a boat, camp, utility, or mobile home trailer, provided it is not attached to a motor vehicle and has not become detached while being towed by a motor vehicle;
- Involves use of a motorized vehicle used primarily to service the insured premises, provided it is not designed for use on public roads, or used for recreational purposes away from the insured premises; or
- Involves use of a recreational motor vehicle not owned by the insured.

Stated simply for purposes of illustration, if an insured struck and injured someone while driving a riding mower on the insured premises, there would be coverage. If the tractor were used primarily to service the insured premises, there would even be coverage if the injury occurred on a public road. Also, if an unattached camper trailer accidentally rolled through a campground, there would be coverage. If an insured damaged property while driving a rented recreational vehicle at the campground, there would be coverage. In addition, if an insured injured someone or caused property damage while driving a golf cart for golfing purposes, there would be coverage.

These scenarios presume, of course, that the vehicle caused the damage or injury, that the insured was liable, and that coverage was not excluded by any other provision, such as the intentional acts exclusion.

Like their ISO counterparts, AAIS personal liability forms carefully preserve protection for an insured's premises exposures as well as incidental off-premises exposures related to vehicles.

On the other hand, the AAIS forms relegate traditional auto claims to the auto policy and do not provide complete coverage for regular use of other vehicles off-premises. If, for example, an insured acquires an all-terrain vehicle for use off-premises, the resulting liability exposure would have to be separately insured. ■

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