

“The Personal Auto Policy & Pizza Delivery”

According to the 1998 ISO Personal Auto Policy, there is no coverage for an insured's ownership or operation of a vehicle while it is being used as a "public or livery conveyance," except that the exclusion does not apply to a share-the-expense car pool. The expressed intent of the policy drafters (via 1989 ISO insurance department filing memorandum) is that this exclusion is designed to preclude coverage for vehicles indiscriminantly available for hire to the general public for the transportation of people or cargo (e.g., taxis, sight-seeing vans, package delivery services, etc.).

This exclusion presents "gray" areas as to coverage for certain activities such as newspaper deliveries, rural mail carriers (for subrogation claims under the Federal Tort Claims Act), home products sales reps (e.g., Avon, Amway, etc.), and so forth. For example, a continuing controversy is whether or not the exclusion applies to "pizza delivery." One court, in interpreting the more restrictive "transporting persons or property for a fee" exclusion, ruled that the exclusion did not apply to an employee using his own auto in the course of employment, largely because the delivery charge did not directly benefit the insured (United Services Automobile Association v. Couch, Tennessee Court of Appeals, 1982).

At least two other state courts (and Supreme Courts at that) have also found coverage under the PAP for pizza delivery: (1) USF&G v. Lightning Rod Mutual Ins. Co., Ohio Supreme Court, 1997, and (2) Pizza, Inc. v. AutomRPMotive Cas. Ins., Louisiana Supreme Court, 1992.

[Note: The Ohio and Louisiana court cases can be accessed at www.lexisone.com. This service is free, but you'll need to get an ID and password.]

In recognition of the likelihood that the unendorsed policy covers such use, at least one company has addressed this issue by introducing a mandatory "Food Delivery Exclusion" endorsement that can be removed, on a case-by-case basis, for a premium surcharge. When in doubt, clarify the company's claims position in advance.

Copyright 2000 by the Independent Insurance Agents & Brokers of America, Inc. Reprinted with permission.

NOTE: Policy coverages and circumstances can change at any time, so the information above may not be accurate at the time of reprinting or subsequently to that time. IIABA does not assume and has no responsibility for liability or damage which may result from the use of any of this information. The most current, up to date version of this article can be found at IIABA's Virtual University at <http://vu.iiab.net>.