

INSURANCE



are you covered?

"It's a sue-happy society and the automobile and the people who work on it are the perfect target," remarks Andy Demrovsky, president of Euro-Car Service, Inc. of Norton, Ohio. "If I could give service owners any advice," he continues, "it would be to make certain they're well-insured."

When it comes to insurance, most of us pay our premiums and take our chances. The phrases "legal liability," "bailee for hire," and "direct-primary option" might as well be a foreign language to us. Certainly, they're not topics apt to come up in the course of dinnertime conversation. But, these phrases and several others are key to your ability to make informed,

wise decisions about what type of business insurance you should purchase. We'll define many of the terms in the text. But, let's take a look at some of the more basic ones now.

Accident. A chance happening. A customer leaves his car in your lot while he runs in to ask you a question. The car is left in gear, but the brake's not applied. While the unsuspecting customer is in your shop, his vehicle rolls into the street, colliding with an oncoming vehicle. That's an accident!

Auto. For insurance purposes, the term auto refers to

any land motor vehicle, trailer, or semitrailer. Even though we associate "auto" with "car," it could also be a moped, motorcycle, three-wheeler, motor home, truck, or tractor-trailer.

Bailee For Hire. That's you! Other examples of bailees for hire are dry cleaners, shoe repairmen, and appliance repair shops. When you take delivery of a vehicle from a customer and repair it in return for compensation, a situation called **bailment** occurs. You become the **bailee**, and the customer, the **bailor**.

Insurer, Insured, Insurance. The insurer will usually be your insurance company. They grant you or guarantee you insurance. You are the insured, the one covered by the insurance.

Lessee, Lessor. Think of the sound of the word owner. That may help you keep in mind that the words ending in the "er" sound are names for owners. Just as a bailor is the car owner, the lessor is the lease-owner and probably the property owner. You are the lessee, or person being given use of the property.



Some companies are hesitant to insure automotive repair facilities. However, a central station burglar alarm and a fire alarm will help to make your business more attractive to insurers.

Property and Contents Insurance

Do you own your building? If so, then your property insurance is quite similar to your homeowner's insurance. It covers two things—building/premises and contents. How much should you insure your building and contents for, and how can you cut your insurance costs? Here are a few tips from Bob Jones, partner in Roughley & Jones Insurance Agency of Fairlawn, Ohio.

1) How much would you pay to rebuild your building,

excluding the value of the land and foundation? That is your **replacement cost**. You can estimate this yourself, with the help of your insurer. Or, you might hire a professional appraiser. Why bother figuring out the replacement cost? Because you are required to insure your property for 80 percent of this value or pay a penalty. Check with your agent to see what the penalties for being underinsured are.

2) Contrary to what you may believe, it's not age that determines how much you will pay to insure your building. As Bob Jones quips, "How much faster does old brick burn than new?" The cost to insure your building depends largely on the construction. Is it made of wood or brick? The least expensive buildings to insure are those made of block or brick with a metal roof. So, if you're thinking of building, this is something to keep in mind.

3) A central station burglar alarm and a fire alarm will make your business more attractive to insurers. Many companies will offer you additional credits for having these security devices.

4) You can purchase contents insurance on the basis of **actual cash value** or **replacement cost**. **Actual cash value** is the **replacement value** minus a **depreciation allowance**. This is less expensive than replacement cost insurance, but here's why. Suppose that your parts cleaner is stolen. It's a 10-year-old piece of equipment that will cost you \$500 to replace. But, your contents are only insured for actual cash value (acv for short). And, acv has your parts cleaner valued at \$100. So you've got to cover the remaining \$400 out of pocket. With replacement cost insurance, you may not have to cover anything yourself.



A way to minimize insurance costs for property contents, particularly if you have a large parts inventory, is to put contents on a reporting form. You will only pay for current inventory.

5) Does your business' contents fluctuate due to a large parts inventory? You can place your contents on a monthly or quarterly reporting form. That way, at all times you're only paying for what you actually have in stock.

6) Before you owned your own service facility, you were probably a mechanic at someone else's. How eager was your home's insurer to insure your tools? Many homeowners' policies won't insure tools. But, as a shopowner, you can help your employees out. Have them lease their tools to you for \$1 a year. Then, you can put the tools on your property insurance policy and charge the employees accordingly. Or, since it'll only cost you a few bucks, don't charge at all. It's your choice.



Many homeowners' policies don't insure employees' tools. Employees *can* lease tools to their employer for \$1 per year. The employer then places tools on his policy and charges the employee accordingly.

7) You're covered against a number of things including fire, wind damage, and many other perils. But, you're not protected against floods or earthquakes. And, most insurance agencies will not write flood insurance. If you are in one of the communities designated as a flood area, you can purchase flood insurance through a program called the National Flood Insurance Program. If you're concerned about flooding in your area, there's a toll-free number, 1-800-638-6620, that you can call for more information. Unlike flood insurance, most companies can write earthquake coverage for you.

8) In case your business is damaged and you are unable to continue operations, you can purchase **business interruption insurance**. This will allow you to recoup lost income and pay wages to your employees.

If you rent your building, most of the above pointers are still valid. You're still responsible for in-

sureing contents. But, as a lessee, you're not responsible for building/premises coverage. Your lessor should insure these. However, to avoid getting stung there are two possible exceptions of which you should be aware.

1) If you make what are known as improvements and betterments upon the facility, they may be your responsibility to insure. Examples of these might be dropped ceilings, air conditioning, or wallpaper that you add. Decide who will insure these, and put it in the lease.

2) If there's a fire, the lessor can collect from his insurance company. But, he may be able to turn around and collect from you (that's called subrogation) if the fire was caused by gross negligence on your part. Now, what's gross negligence? Do you ever drain gasoline or oil inside your building? You probably didn't know that doing so is against the law. And, if the fire is somehow caused by that, you've committed gross negligence and the lessor can seek reimbursement from you. How to avoid this? You have two choices: a) in your lease, have the lessor waive his right to subrogate, or b) purchase fire legal liability insurance which will cover such an occurrence.

Garage Policy

While most businesses are given general forms to adapt to their particular needs, service stations, dealerships, even parking garages have special types of liability insurance designed for them. We'll divide the insurance into two parts, garage policy and garagekeepers' legal liability. The garage policy covers the following things:

Premises Liability. Any injury or damage that arises out of the "ownership, maintenance, or use of locations for garage business" is covered. So, here's your coverage for the customer who slips on a wrench in a service bay and breaks her ankle.

Operations Liability. All claims that arise from operations necessary or incidental to garage business are covered. So, if you hire painters to spruce the place up, and one of them drops a bucket on your alignment equipment and breaks it, it's covered here. Also included here is insurance for damage arising from elevators, escalators, and auto service hoists. But, the garage policy does not cover damage to property in your care, custody, or control. What this means is that the policy covers you for many things, but not damage to customers' automobiles. That coverage comes in the garagekeepers' legal liability insurance which we will discuss shortly.

Product Liability. If an accident occurs and it's due to a defective part, your insurance will cover the damage to the rest of the car, but *not* the defective part. If this sounds odd to you, there is a possible way around it. Ask your insurance agent to check in his

Fire Casualty & Surety Bulletins. On the **Auto Gla-5** page, something called **Broad Form Products Endorsement** is discussed. Although this is not widely used, it would enable you to buy back the product exclusion so that your insurance will cover not just the damage, but the defective product as well. One catch, there is a \$250 deductible. So if you put a defective tire on a car and the tire blows, causing the customer to smash into a telephone pole, your insurance will now cover the cost of the defective product above \$250. Damages up to \$250, you pay.

Completed Operations Liability. This is quite similar to product liability. If an accident arises from faulty workmanship done by you or those working for you, your insurance will cover the accident. Note that this is not basic malpractice insurance because it doesn't cover the work itself, only accidents that arise from it. Also notice that this will cover accidents arising from work done by you or those working for you. Suppose you send an engine away to be rebuilt and it's not done correctly. If an accident occurs as a result of this, here's protection even though you or your employees did not actually do the work.

General Liability Insureds. Who does this coverage insure in case of injury? We've already mentioned customers. But what about employees? There is no coverage for employees who work on automobiles. Workmen's compensation, which you are required to have, covers injuries to these employees. But, what about secretaries or even yourself, if you do only book-keeping and management related work, and never touch the automobiles? This policy insures you as long as you are acting within the scope of your duties. Once you step outside of these duties, for example, to work on a car, you're not covered.



You are responsible for conditions on your premises that could cause damage or injury to customers. So, if a customer slips on oil in your service area and hurts himself, you're liable.

A few more tips for you before we move on to discuss garagekeepers' legal liability insurance.

- 1) Regardless of any "Warning: we are not liable for customers injured in bays" signs you may post, you are liable and covered by this insurance.
- 2) Planning to go out of business? You still are liable for accidents that arise due to defective products or faulty work performed. Check with your insurance agent to see what type of coverage you can purchase to protect you from these residual liabilities.
- 3) When tragedy strikes, people have a tendency to look for deep pockets. A standard insurance policy will give you up to \$1 million in coverage. In many cases, it may be prudent to have more than this. Contact your insurance agent about an **umbrella** or **excess policy** that would protect you above and beyond \$1 million.

Garagekeepers' Legal Liability Insurance

Like a dry cleaner, a shoe repairman, even a parking garage, you are what is known as a **bailee for hire**. In return for compensation, you are performing a service for a customer, the bailor. It is your responsibility to safeguard any property entrusted to you. Once in your care, custody, or control, you may be legally liable for this property.



If a customer's car is stolen while in your possession, you're not necessarily responsible for the loss. However, if the vehicle was stolen due to gross negligence on your part, you are liable.

What does all this legalese mean? Simply, you are responsible for taking care of your customers' automobiles while they are in your care. Obviously, you can't be expected to sit guard all night with a shotgun protecting the property, but you can lock doors and win-

dows. That's an illustration of **due care**. **Gross negligence** would be leaving the keys in the ignition and the doors unlocked. You are legally liable and insured under this policy only if there is proof of gross negligence.

So, if a customer's tires are stolen off his car while it's in your parking lot, you're not legally liable. Your customer might yell and scream that you are, but you're not. The only problem here is that since you are not liable, your insurance won't pay. And, that customer might not remain a customer as a result. What can you do about this? There is something called **goodwill coverage** which is really just what it sounds like—a way to maintain goodwill and employee-customer relations. You can buy back this coverage so that your insurance will cover those tires, regardless of liability. You have two choices here. You can purchase **direct-primary** or **direct-excess** coverage. With the direct-primary option, coverage to a customer's car is provided regardless of whether he has his own insurance. If you choose the direct-excess coverage which is less expensive, coverage will be provided in excess of what the customer receives from his own insurance company. Or, in the case of a customer who has no insurance, this coverage will act as direct-primary does, and cover the entire loss.

We've seen from the above illustration that this policy protects you from theft of customers' property. But, what else does it cover? You can purchase **comprehensive insurance** which covers losses from any cause but collision. Then, you can purchase **collision insurance** separately. Obviously, when we think of collisions, car crashes come to mind. But, this also covers damage to an automobile that arose from using a hoist, a broken windshield from a falling wrench, or even a dented hood from a garage door closing on it. You can also purchase **specified perils insurance**. This covers fire or explosion, theft, mischief, and vandalism.

What Garagekeepers' Insurance Doesn't Cover

Employee Theft. To protect yourself from employee theft, Bob Jones recommends that you purchase **fidelity coverage** also known as **employee dishonesty coverage**. The insurance is written on the company, but purchased on each employee. Obviously, employees such as parts people and cashiers will be more expensive to insure than technicians.

Liability By Agreement. I, as the customer, agree to be liable for the stolen tires. Now, the garagekeepers' policy will not assume the coverage.

Products Or Work Loss. Once again, no coverage for defective parts or faulty work.

Sound Equipment. You are covered only if the equipment is installed in the dash of the auto. So, a tape



Fidelity coverage, also known as **employee dishonesty coverage**, can be purchased by the employer on *each* employee. This coverage will insure you, the owner, against employee theft.

deck or radar detector sitting on the seat is not covered if stolen.

Personal Property. This seems to go along with sound equipment. If it's not attached, you're not covered.

Finding an Insurance Agency

Insurance is a costly and confusing item crucial to business operations. Therefore, you want to be certain that you are insured by an agency best able to help you. Throughout this article, I have passed along tips from Bob Jones on how to lower your payments, lessen your confusion, and add to your general peace of mind. Here is one final suggestion for you.

"If you are considering changing insurance companies due to the promise of cheaper rates, find out what the hidden costs are. Ask the new company to come out and review all requirements they will insist upon before you leave your old company," Jones warns. "Many companies will request that you put up fences, or install alarm systems, and before you know it, your costs are higher than they were and your old company won't take you back." Where to find the best insurance company for your needs? "In your county there is a local insurance board. Ask them for the names of three or four agencies and check each of them out before making a decision."

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—By Marla Schleider