

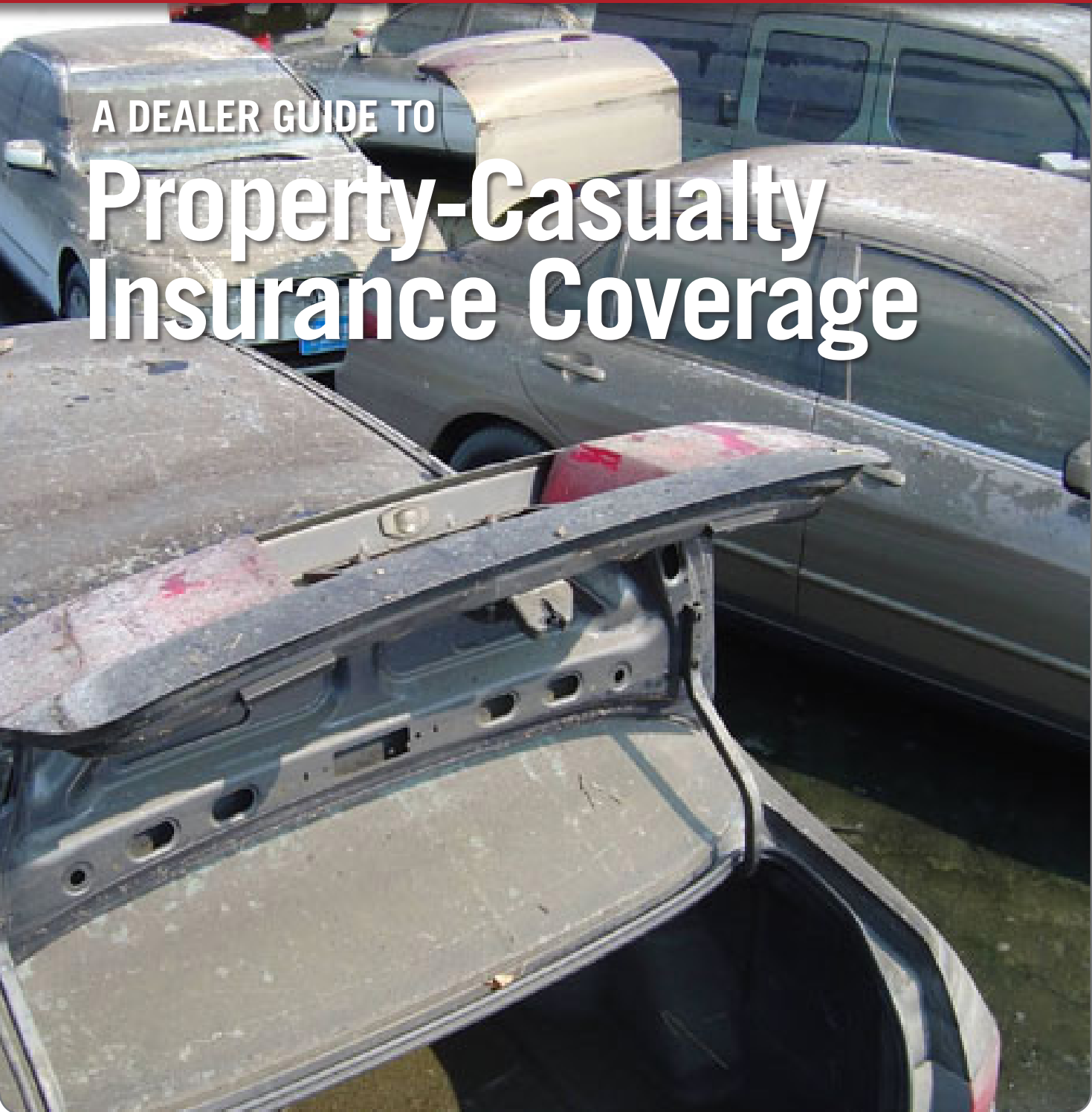
Driven

NADA MANAGEMENT SERIES

BM18

A DEALER GUIDE TO

Property-Casualty Insurance Coverage



NATIONAL
AUTOMOBILE
DEALERS
ASSOCIATION

The National Automobile Dealers Association (NADA) has prepared this management guide to assist its dealer members in being as efficient as possible in the operation of their dealerships. The presentation of this information is not intended to encourage concerted action among competitors or any other action on the part of dealers that would in any manner fix or stabilize the price or any element of the price of any good or service.

This guide was prepared for NADA by Federated Mutual Insurance Company and is intended to provide general information about property-casualty insurance protection for your dealership. It should not be construed as specific advice to any dealer regarding insurance recommendations and costs. You are advised to consult with insurance companies and agents in your area to obtain specific insurance recommendations for your dealership.

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A DEALER GUIDE TO
**Property-Casualty
Insurance Coverage**

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A DEALER GUIDE TO Property-Casualty Insurance Coverage

I. EXECUTIVE SUMMARY AND OVERVIEW

So you think you're covered ... but are you?

Dealing with issues such as employment-related practices, presumptive liability, driving standards, disaster planning, and furnished auto programs can lead to potential surprises when a loss occurs. Don't wait until you file a claim to find out if you've left your business vulnerable to these exposures.

You've probably heard or read about a variety of high settlements that have occurred from any imaginable type of claim. Dealers know about high litigation and defense costs.

Proper insurance programming—coupled with sound risk management programs and practices—tailored to your business's needs can provide solutions to the risks mentioned above.

The following information is intended as a basic guide. Consult qualified professionals to assist you in tailoring an insurance program that meets your specific needs.

II. CHOOSING AN INSURANCE COMPANY

What should you look for in an insurance company?

You need to investigate the financial strength of any company that insures your business, and look for experience in the automotive dealership industry.

Specifically:

- When seeking insurance for your dealership, look only at companies prominent in insuring businesses in the auto dealer industry. The company should have a history of quality service and commitment to your industry.
- Check for ratings by the leading insurance industry analysts, primarily the A.M. Best Company. The insurer you select should be rated A or higher. Other rating resources include Standard & Poor's, The Street.com Ratings, and the Ward Group.

What can you do to secure affordable insurance coverage?

Once you've selected the insurers that meet your criteria for stability and service, you will need to meet their underwriting criteria to secure the best value and price. Insurance companies will be more willing to aggressively underwrite businesses that demonstrate good business practices and provide information that is needed to make informed underwriting decisions.

Complete loss information and financial statements are key pieces of information that will affect whether your business is found acceptable by the insurance company. If you need to contact several companies to gather your loss information, start early. Most companies require all information to be submitted several weeks before your renewal.

In today's business world, it's no longer a matter of selecting an insurance company based on price

alone. You require special coverages and risk management services to properly manage your insurance costs. Make sure you are dealing with a company that understands auto dealers and the industry. Is the insurer experienced in insuring dealers? Does the company provide specific assistance to help you develop good business practices that can help control your insurance costs?

III. CONTROLLING LOSSES IS KEY TO CUTTING INSURANCE COSTS

There is risk everywhere. Look around your dealership. You see the risk of key control, computer equipment, and showroom demos. Then look outside. You see the risk of test drives, customer rentals or loaners, theft or vandalism. But the risks—and losses—vary in each of these areas. At first glance, your risks may appear the same as another dealership's; when it gets down to the details, however, your dealership is unique. Managing your risk areas with targeted responses, rather than a “one-size-fits-all” approach, is the key to minimizing losses and boosting profits.

Loss prevention is the best way to help contain insurance premiums. Here are some areas where risk management is key:

- **Motor Vehicle Records (MVR) program**

Your business may only be as safe as your drivers. Motor vehicle accidents are the greatest single cause of job-related fatalities. As an employer you may be deemed liable for accidents caused by an employee's negligence, whether the employee is operating a dealership or personal vehicle while on company business. A program that checks applicants' driving records prior to hiring can help reduce this risk. Order MVRs on all employees at least every three years to monitor changes.

- **Customer test-drive practices**

Anytime a salesperson allows an unaccompanied test drive, you know that the vehicle may not be properly demonstrated and you can never be certain it will be returned safely. A best practice is for a salesperson

to accompany a customer on a test drive. Show the customer the proper use of the vehicle, what the options are, where they are located, etc., prior to the test drive. Train your salespeople to ask always for a valid driver's license, confirm the identity of the driver from the driver's license photo, and make a copy of the license. If possible, the dealership should establish a designated test-drive route.

- **Use of furnished vehicles**

Dealerships that furnish autos—sales demos or otherwise—assume an unnecessary risk for both physical damage to the vehicles and any resulting liability should an accident occur. And perhaps the greatest risk of all arises from the personal use of furnished autos.

How many furnished vehicles do you have at your dealership? How many new or used vehicles are being furnished by your dealership to sales personnel, managers, managers' spouses, family members, coaches, CPAs, attorneys, or others with whom you have business relationships?

- **Use of loaners**

A dealership-owned vehicle provided to a customer is considered a loaner. A loaner agreement should be completed and signed by your customer or prospective customer whenever a car is loaned to the customer. A properly worded agreement, consistent with the laws of your state, can reduce exposure.

- **Key control**

Never leave keys in the vehicle. Lock boxes are not security devices. Keys should be kept away from public access. Keep only one set of keys on a ring.

- **Security and theft prevention**

All dealers know that to prevent theft, they need to consider the physical security of their facilities—building security, lot protection, key control, and lighting. Your dealership's internal procedures—an often overlooked area—need to be addressed. Procedures such as title transfers and how vehicles are delivered can all compromise your dealership's ability to prevent theft by misrepresentation and fraud.

- **Employment-related practices liability: discrimination, harassment, wrongful termination**

Does your company have a written “no tolerance” policy for discrimination and harassment? It should. Your employees need to understand the types of behavior that will not be permitted in your workplace, and the consequences for anyone who violates the policy.

An active discrimination/harassment policy is key. Just responding to incidents as they are reported will not be a defense. Your policy should be written, endorsed, promoted to all your employees by upper management, and communicated frequently. It should become a basic part of your daily operations.

Do you have notification forms for new hires to sign, posters or signs, annual updated bulletins or safety meetings, and a 24-hour hot line?

Do you provide employees two avenues for reporting grievances?

Do you have a written performance review process?

All the above help you control your liability in the area of employment-related practices.

- **Flood exposure**

Flood presents a significant exposure to auto dealerships. Fortunately, flood exposures can often be avoided. You should develop a flood evacuation plan for your dealership. This plan should include detailed procedures for moving the vehicle inventory to pre-determined areas safe from the threat of flood. A list of available drivers, with telephone numbers, should be maintained before a flood condition is imminent. Implementing your flood evacuation plan and procedures will help to reduce flood damage to inventory.

IV. AUTO DEALER INSURANCE POLICY BASICS

At a minimum, a sound insurance policy should include the following coverages:

Property Coverage

Buildings

No coinsurance

Valuation (replacement cost, actual cash value, functional replacement cost, fire legal liability)

Blanket limit

Business Personal Property

No coinsurance

Valuation (replacement cost, actual cash value)

Blanket limit

Miscellaneous Property

Personal property of others

– Employee tools

Outdoor property

– Fences

– Lights/light poles

– Signs

Accounts Receivable

– At described premises

Accounts Receivable

– Not at described premises

Building ordinance or law

Debris removal

Electronic data

Systems breakdown

Valuable papers & records

Business Interruption Coverage

Business Income

Coverage limit amount

– Unlimited

– Monthly limit

Extra Expense

Coverage limit amount

– Unlimited

– Monthly limit

Crime Coverage

Employee theft of insured's property
Employee theft of customer's property
Forgery or alteration

Theft of money and securities

- Inside the premises
- Outside the premises

Computer fraud
Funds transfer fraud
Money orders & Counterfeit paper/Currency
Employee benefit plan

Garage Coverage

Liability

Garage operations – other than covered autos

- Each occurrence limit of at least \$500,000
- Premises and operations included
- Products and completed operations included

Auto – Covered autos

- Each accident limit of \$500,000
- Hired auto liability
- Non-owned auto liability

Medical payments
Personal Injury Protection (PIP)
Uninsured and Underinsured Motorist (UM/UIM)
Amendment of products, Garagekeepers, and Faulty repair coverage

- Repair percentage

Odometer and Prior damage disclosure
Dealers insurance agents errors and omissions
Extended defense protection
Title errors and omissions
Truth-in-Lending and Truth-in-Leasing
Vicarious and broadened auto liability
Driver other car coverage
Employee benefit liability

Garagekeepers

Comprehensive
Collision

Executive Liability

Auto Dealers Physical Damage (ADPD)

Comprehensive coverage
Collision coverage
False pretense & government confiscation
Dealers replacement and repairs

Commercial Umbrella Coverage

Umbrella excess coverage provided over underlying with adequate limits
No retentions

Employment-Related Practices Liability Coverage

Includes harassment, discrimination, and wrongful termination
Includes defense costs

Pollution Coverage

Pollutant cleanup and removal
Pollution liability policy

V. GLOSSARY OF INSURANCE TERMS

The following are commonly used terms in the insurance industry. Read your policies carefully to understand the specific definitions used and coverage available under your policies.

Property Coverage

Accounts Receivable

Coverage included at the described premises for accounts receivable that you are unable to collect due to a covered cause of loss.

Business Income

Provides for loss of income and extra expense following a covered loss.

Coinsurance

A property insurance provision that penalizes the insured for not purchasing a limit of insurance at least equal to a specified percentage (commonly 80 percent) of the value of the insured property. Typically, the coinsurance provision stipulates that the insured will recover no more than the following: the amount of insurance purchased (the limit of insurance) divided by the amount of insurance required (the value of the property on the date of loss multiplied by the coinsurance percentage), less the deductible.

Pollution Clean-up and Removal

Coverage for your expense to extract pollutants from land or water at the described premises, if their release was caused by a covered cause of loss.

Systems Breakdown

Physical damage resulting from an accident occurring on your premises. "Accident" means a sudden and accidental breakdown of any boiler, any fired or unfired pressure vessel, refrigerating or air conditioning system, or any mechanical or electrical machine, equipment, or apparatus used for the generation, transmission, or utilization of mechanical or electrical power.

Valuable Papers and Records

Coverage to apply to the cost to replace or restore lost information on lost or damaged valuable papers, records, and media for which duplicates do not exist. This extension includes titles, blueprints, drawings,

payroll information, negatives, plates, models, manuscripts, patterns, forms, dies, and molds.

Inventory Coverage

Collision Deductible Aggregate

Auto Dealers Physical Damage (ADPD) covers the insured auto dealer's vehicles, motorcycles, mopeds, etc., including those in boxes or crates.

False Pretense and Government Confiscation

Coverage protects dealers who are tricked into voluntarily parting with a vehicle or obtaining a vehicle from a seller who did not have legal title.

Liability Coverage

Commercial Umbrella

A commercial umbrella typically performs three basic functions:

- Excess limits over the primary/underlying policies
- Becomes primary when the aggregate limit of the underlying policy has been exhausted.
- Offers a broader scope of coverage than afforded by the underlying policies.

Dealers Insurance Agent Errors and Omissions

The garage liability limit applies for legal defense and damage that result from a negligent act, error, or omission by you or your dealership's employees while acting as an insurance agent.

Electronic Data Liability

This endorsement is available for loss to electronic data as a result of physical injury to tangible property.

Employee Benefit Liability

Employee benefit liability coverage pays for errors and omissions in the administering of employee benefit programs.

Employment-Related Practices Liability

Coverage may be available for alleged, unintentional discrimination, sexual harassment, or wrongful termination of an employee or prospective employee.

Executive Personal Liability

Provides bodily injury and property damage protection for:

- **Contingent Workers Compensation**

Coverage provided in the event that an owner, partner, corporate officer, or LLC manager does not have protection under their homeowners policy for individuals providing service at their residence property.

- **Not-for-Profit Personal Liability**

Bodily injury and property damage protection is provided for an owner, partner, officer, and their family members when serving on the board of directors of a nonprofit organization.

- **Personal Executive Coverage**

Provides coverage from an assault or attack on an owner, partner, officer, and family member. Coverage can also pay security expenses for threat of an assault, attack, or a stalking threat.

Extended Defense Protection

Defense costs for suits from a dissatisfied customer arising out of the sale, service, or repair of the dealership's product.

Incidental Medical Services Coverage

Extends protection to employees, including coverage for injury to fellow employees (not covered in the basic General Liability policy). In addition, it typically amends the definition of bodily injury to include psychological injury arising out of a negligent act, error, or omission in rendering incidental medical services.

Personal Umbrella

Personal Umbrellas are an excess policy where coverage is provided by the scheduled underlying policies. Coverage would be provided by the personal umbrella policy unless a specific exclusion was added to the policy.

Title Errors and Omissions

The garage liability limit applies for claims that result from errors or omissions in preparing title papers for registering a vehicle sold by your dealership.

Truth-in-Lending and Leasing Liability Coverage

Provides liability protection for errors and omissions that result in civil lawsuits for businesses that sell products or services under payment agreements (formal or informal). Potential truth-in-lending action in itself does not necessarily represent catastrophic

loss, but, in states where punitive damages are covered by insurance, this is of particular importance.

Workers Compensation

Extends protection if you or your business is sued for a work-related injury.

Crime Coverage

Computer Fraud

Coverage may be provided for theft accomplished through the use of a computer to transfer property fraudulently from inside the premises (including banking premises) to someone or someplace outside the premises.

Employee Theft

Coverage may be provided for direct loss or damage to your covered property, money, and securities resulting from dishonest acts committed by any of your employees.

Forgery or Alteration

Coverage may be provided for loss resulting directly from forgery or alteration of any check, draft, promissory note, bill of exchange, or similar written promise of payment in money that your business has issued or was issued by someone impersonating your business agent.

Funds Transfer Fraud

Coverage may be provided for loss of funds resulting from a fraudulent instruction to transfer, pay, or deliver money or securities at a financial institution.

Money Order and Counterfeit Paper

Coverage may be provided for loss resulting directly from your acceptance of money orders and/or counterfeit paper currency acquired during the regular course of business.

Theft of Money and Securities

Coverage may be provided for loss of money and securities used in your business caused by theft, disappearance, or destruction. Separate limits can be provided for both on- and off-premise coverage.

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For providing their insight and expertise on the subject of property-casualty insurance for automobile dealerships, NADA wishes to thank:

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