

Motor Vehicle Reports (MVRs)



This Reference Note does not cover the requirements of the Federal Motor Carrier Safety Regulations for Commercial fleets.

Organizations with effective safety programs, and attention to the bottom line, understand the importance of hiring and retaining employees with good driving records, if those employees must drive on company business. MVRs, obtained from each state's Department of Motor Vehicles, are the accepted method of obtaining historical data regarding an employee or applicant's driving record.

MVRs help managers determine how "risky" it is to hire or retain employees. Thus, an effective program to obtain and analyze MVRs should be a fundamental part of any organization's risk management program.

What Does The Research Say About The Effectiveness Of Using MVRs?

California Department of Motor Vehicle Research Findings

In a report, *An Inventory of California Driver Accident Risk Factors*, researchers studied driver record information on a random sample of over 200,000 California drivers and driver record histories covering 12 years of driving. The report addresses the following issues related to the assessment of traffic crash risk:

- Driver record in relation to gender and age
- Crash-repeaters
- Relationship between traffic crashes and citations

Findings of the study include the following:

1. Crash risk increases as a function of the number of crashes and citations on the driver's prior record.
2. Men have poorer records than do women, largely because they drive more miles.
3. For both sexes, driver age is related to crashes and citations. Teen drivers have the highest crash involvement and citation rates. As drivers age, their crash involvement rate decreases through about age 69 and then increases somewhat. As drivers age, their citation rate decreases substantially, even at very advanced age.
4. When all risk factors are considered simultaneously, prior total citation frequency continues to be the most significant predictor of crash involvement, followed by prior crash involvement frequency. Increased crash involvement was also shown to be associated with possessing a commercial drivers license, being young, being male, having a medical condition on record, and having a physician referral for low visual-acuity on record.

Interestingly, the study also found that the number of prior crashes was substantially more correlated with future crash risk than was the number of prior "at fault" crashes. Persons with several past "not-at-fault" crashes may not recognize hazardous driving situations, take unnecessary risks, and become involved in crashes regardless of their own, legally defined, culpability.

New York Study

A 2001 study in New York, reported in May, 2003, indicates that "Many drivers in fatal crashes had a history of bad driving." The report points out that "nearly 16% of drivers involved in fatal crashes in 2001 had their licenses sus-

pended or revoked previously.” A *Newsday* (newspaper) study revealed “at least 14% had other speeding convictions and more than 15% had other crashes on their driving records.” The National Director of Traffic Safety for AAA concluded, “There’s definitely a correlation between a history of crashing and being in a future crash.”

American Trucking Associations Foundation (ATAF)

In their *Safe Returns: A Compendium of Injury Reduction and Safety Management Practices of Award Winning Carriers* report, the ATAF says “...starting with the right people is key to overall safety performance.” To the extent that the “80 – 20” rule applies, fleets who rarely or never hire a driver from the bottom 20% of applicants may be eliminating the majority of their potential crash risk and liability.

Federal Motor Carrier Safety Administration (FMCSA)

FMCSA’s *Survey of Safest Motor Carriers, 2003* identified a number of driver characteristics considered most important by survey respondents in making hiring decisions for company drivers.

These included:

- Lack of prior dismissals for alcohol and drugs
- Lack of past chargeable crashes
- Driving experience with other carriers
- No prior traffic violations
- Solo driving experience
- Recommendations from other carriers
- Being 25 years of age or older

Transportation Research Board/FMCSA

In their 2003 report, *Effective Commercial Truck and Bus Safety Management Techniques*, the authors conclude that one individual characteristic known to affect future crash and incident involvement is a prior history of crashes and traffic convictions.

The report points out a 1994 study that randomly selected 615 non-commercial drivers involved in fatal crashes, and 143 drivers stopped by police for risky driving. Drivers involved in fatal crashes and risky driving had significantly more traffic offences prior to these incidents than other drivers.

American Transportation Research Institute

In their October, 2005 study, *Predicting Truck Crash Involvement: Developing A Commercial driver Behavior-Based Model and Recommended Countermeasures*, the American Transportation Research Institute found that specific conviction types were statistically valid predictors of future crash involvement.

The four convictions with the highest likelihood of a future crash are:

- Improper or erratic lane changes
- Failure to yield right of way
- Improper turn
- Failure to keep in proper lane

When a commercial vehicle driver is convicted of one of these, his/her likelihood of a future crash increases between 91% and 100%.

Similarly, specific types of violations are indicators of future crashes:

- Reckless driving violation: crash likelihood increases 325%
- Improper turn violation: crash likelihood increases 105%

As can be seen from the paper’s title, this research concludes by emphasizing the importance of driver interventions that address behavioral issues. Also important is the establishment of specific standards for driver motor vehicle reports, as well as standards that disqualify if they obtain a certain level of violations/convictions.

Research Conclusion

Evaluating a person’s previous driving record will help identify their driving behaviors and characteristics. Drivers who break laws, and/or were involved in crashes in the past, will be much more prone to repeating those behaviors in the future.

Obtaining MVRs on applicants and existing employees who drive on company business is one of the most fundamental controls to manage risk in your driving force. For fleets operating under Federal Motor Carrier Safety Regulations, it is the law.

Fair Credit Reporting Act (FCRA)

The federal Fair Credit Reporting Act (FCRA), which applies to all “consumer reports,” includ-

ing MVRs, credit scores, and many other types of information on individuals, has very strict guidelines on what is “legal” regarding the use of such reports.

Under the FCRA, an employer is well within their rights to require that a current or prospective employee provide, or make available, a wide variety of personal information, such as an MVR, credit report, criminal background report, etc. At the same time, employees are granted significant safeguards regarding the access and use of such information for employment.

When any consumer report will be used for employment, the employee or prospective employee must first give written permission for such information to be obtained by the employer. When the employer requests this information from a “consumer reporting agency” (CRA), such as Equifax, Experian, TransUnion, ChoicePoint, DAC, etc., there are certain federally-mandated documents and procedures which must accompany the transaction between the CRA and the employer.

Individual states may have specific requirements regarding compliance with FCRA and their own MVR requesting process. States may also require specific forms to request MVRs, and in all cases, those forms require the employee or applicant’s affirmation that they allow the employer to request driving record information.

For a detailed report on the FCRA, employers should obtain the Federal Trade Commission (FTC) report, *Using Consumer Reports: What Employers Need To Know*, available on the FTC website: www.ftc.gov

Employers should contact their own legal advisors to ensure compliance with the requirements of the FCRA in their employee selection process.

How Accurate Are Motor Vehicle Reports?

A June, 2002 Insurance Research Council report, *Accuracy of Motor Vehicle Records: An Analysis of Traffic Convictions*, reveals a disturbing problem with the accuracy of MVRs. The study examined the accuracy of 43,059 drivers’ MVRs with respect to 50,782 known traffic convictions from four states, plus an analysis of violations issued to out-of-state drivers.

Following is a summation of the major findings:

- More than one in five convictions for traffic violations appear to be missing from MVRs in some states among the states examined.
- There is a variation in the percentage of convictions missing from MVRs based on the type of violation.
- Among the sample of driving under the influence (DUI) violations, convictions were missing from approximately one in ten Ohio MVRs (11%) to as many as one in five MVRs in Florida (20%).
- Convictions for out-of-state drivers were more likely to be missing from MVRs than convictions for drivers licensed within that state.
- Nationwide, eight states do not record all or most convictions issued in other states.
- Fifteen states allow traffic school participation at some level in place of convictions for traffic violations, thereby, keeping these violations off driving records.
- While this study found that significant numbers of convictions are missing from MVRs, most Americans have an impression that MVRs are very or completely accurate.

According to the report, many traffic citations have no possibility of ever appearing on driver records. In some states, drivers have options to keep violations from ever being posted to their driving record or to mask those citations from official view once the violations have been recorded. The most common option available for drivers to keep these violations from appearing on driving histories is attending traffic school.

What Are Your Options?

Business managers realize they cannot keep up with each state’s unique differences in requesting MVRs or in how accurate those MVRs may be. Managers frequently turn to outside vendors who, for a fee, offer extensive driver selection services. These often include driver qualification requirements for commercial fleets under Federal Motor Carrier Safety Regulations (FMCSR), as well as other businesses who simply want to ensure they are putting the best qualified drivers on the road.

Whether using the individual state motor vehicle departments to obtain MVRs, or contracting with outside vendors, managers should have a process in place to consistently assess the quality of an individual's driving record. As a best practice, businesses should establish and follow clear procedures on how MVRs will be obtained, how they will be interpreted, and what the company's minimum standards are regarding an individual's driving record.

Can You Measure How Risky Your Drivers Are?

Manage to a Percentage of Drivers With Clear Records

Starting with the right people is critical to overall safety performance. To the extent that the "80 – 20" rule applies, fleets who rarely or never hire a driver from the "bottom 20" may be eliminating the majority of their potential crash risk and liability.

In Liberty Mutual's periodic *Truckers' Survey*, a consistent best practice among top performing fleets has been the establishment of a specific percentage of drivers with a clear driving record for the previous three years.

These fleets have a goal that at least 70% of their driving force must have a clear record for the preceding three years. They manage their hiring program accordingly and measure how well they are doing as part of their business metrics. Fleets who carefully manage the "riskiness" of their driving force have fewer crashes.

Manage to an Average "Driver History Measure"

The September, 2001, report, *An Analysis of Commercial Vehicle Driver Traffic Conviction Data to Identify High Safety Risk Motor Carriers*, included a method to quantify an overall driver history metric for each fleet. The Upper Great Plains Transportation Institute and FMCSA completed the report jointly.

The report is specific to commercial motor fleets who must comply with FMCSR regulations. It reports a "significant correlation" between driver conviction data and high risk motor fleets, and concludes that the method provides a means to identify fleets with safety problems.

A carrier driver history measure was created, based on the average number of convictions of

drivers employed by the carriers, and is significantly correlated with carriers' out-of-service rates, crash rates, and SafeStat Safety Evaluation Area (SEA) scores. Fleets with poor crash- and out-of-service results have drivers with worse than average conviction rates.

In order to test for a correlation between traffic conviction rates of drivers employed by a carrier and the carrier's safety record, a driver history measure was required for each carrier. The following simple formula weights convictions based on their severity:

$$\begin{aligned} & \text{Driver} && 3 \text{ [A Disqualifying Offense]} \\ & \text{History} = &+ 2 \text{ [A Serious Offense]} \\ & \text{Measure} && + 1 \text{ [Any Other Offense]} \end{aligned}$$

For the purposes of the report, the "offenses" were defined as those in FMCSR regulations, Sec. 383.51. However, any fleet may define their own disqualifying and serious offenses in order to derive a number. The methodology can carry over to any fleet if managers simply accept that they can establish their own driver history measures and then consistently apply those measures.

In the previous example, the company mean is the XYZ Fleet's average Driver History Measure. If the XYZ fleet's management determined that this average is acceptable to their business, they would institute a procedure that no driver will be hired whose previous Driver History Measure, based on their MVR, was greater than 1. They might also require that any in-service driver whose Driver History Measure exceeds 1 be terminated, counseled, or required to undergo remedial training.

In the research report cited above, the range of all the Driver History Measures for all fleets studied (n = 13,829) was between 0 and 27. The average Driver History Measure for 13,829 fleets was 0.74.

Conclusions

- Obtaining and evaluating MVRs on all persons who drive on company business is critical.

An example of how the Driver History Measure might be applied is follows:

| XYZ Company | | |
|-----------------|--|-------------|
| Driver A | Driver History Measure = 3[1] + 2[0] + [0] | DHM = 3 |
| Driver B | Driver History Measure = 3[0] + 2[0] + [0] | DHM = 0 |
| Driver C | Driver History Measure = 3[0] + 2[0] + [1] | DHM = 1 |
| Driver D | Driver History Measure = 3[0] + 2[1] + [0] | DHM = 2 |
| Driver E | Driver History Measure = 3[0] + 2[0] + [0] | DHM = 0 |
| Driver F | Driver History Measure = 3[0] + 2[0] + [0] | DHM = 0 |
| Driver G | Driver History Measure = 3[0] + 2[0] + [1] | DHM = 1 |
| | Total = 7 | |
| | Company Mean = 1 | |
| | | (7 ÷ 7 = 1) |

- Failure to hire and retain drivers based upon the evaluation of their previous record may lead to allegations of negligent entrustment—“entrusting a vehicle to an individual without ensuring that the individual has a valid driver’s license” or “allowing the person to drive a company vehicle despite the individual’s past driving history, known or unknown.”
 - Consistent comparison of MVRs to pre-established hiring and retention criteria is critical.
 - Understanding the limitations of MVRs and the importance of completing previous employer reference checks and formal in-vehicle road testing is critical.
- The research is clear—drivers with a history of violations and crashes will most likely continue to have violations and crashes in the future. Hiring these drivers with disregard to their record is risky business.

The illustrations, instructions and principles contained in the material are general in scope and, to the best of our knowledge, current at the time of publication. No attempt has been made to interpret any referenced codes, standards or regulations. Please refer to the appropriate code-, standard-, or regulation-making authority for interpretation or clarification. Provided that you always reproduce our copyright notice and any other notice of rights, disclaimers, and limitations, and provided that no copy in whole or in part is transferred, sold, lent, or leased to any third party, you may make and distribute copies of this publication for your internal use.