

## **Garage liability; the injury coverage gap**

By Kenneth Golsan

Published in Auto Pro and The Golden Eagle –1994

The body shop owner's last question to his attorney was "what do you mean — 'personal injury'?"

One of the biggest worries all body shop operations have is third-party lawsuits seeking injury damages. Not only can the damage awarded by the court exceed the net worth of your business, or the total lifetime income potential of the claimant, but the legal costs can reach onrepairable proportions.

One way to protect against negligent third-party injury claims is to purchase a Garage Liability policy. You hope.

This article will explain one major injury scope that is specifically excluded on most garage liability policies, and how to broaden your business insurance coverage to better handle third-party injury claims. Best of all, as you will see in a moment, the change to broaden your liability coverage is cheap when you consider the gap's alternatives.

First, some terminology to see things straight. Third-party is an individual other than the insured or insurance company who has incurred a loss or is entitled to receive a benefit payment as the result of the act or omissions of the insured. Keep in mind that the "individual" is not an employee — for in this case an employee is considered an insured as well as the business and officers of the business are considered insureds.

### **Injury coverage — what you do and don't get**

Simply stated, most Garage Liability policies afford coverage for what is called bodily injury. Under the definition section of the policy, bodily injury is defined as "bodily injury, sickness or disease sustained by a person including death." That's it.

Bodily is the key word, Any other form of injury like "personal injury is not provided. Understanding how loosely the word injury is used in our courts today — coverage for bodily injury alone may not be adequate. How many newspaper headlines today depict civil court battles over "personal injury?" Almost every third-party claim seems to ask the court for more than just bodily injury.

Claims against businesses address wrongful conduct causing false arrest, invasion of privacy,

libel, slander, defamation of character, malicious prosecution and other noisy injury terms. While maintaining a Garage Liability policy is wise, the basic coverage doesn't seem to be enough.

### **The Solution**

"Personal Injury" can be added to the policy by endorsement. There are two ways of doing this, depending on your insurance contract. Some carriers will offer it by itself as an endorsement. Others will provide it if you purchase what is called the Broad Form Liability Endorsement. The Broad Form Endorsement gives you some extra coverage, including personal injury, such as Fire Legal Liability, Incidental Malpractice Liability, Non-owned Watercraft, Additional Persons (spouse of partner,) Newly Acquired Garage Business, and Limited Worldwide Liability Coverage. All important coverages and a topic for later days.

The personal injury endorsement can cost the average shop about \$150 per year. The Broad Form Endorsement roughly \$500.

With the addition of the "personal injury" endorsement the garage insurance program possesses a far broader definition of injury. The policy will read that injury will provide not only bodily injury, but will expand the injury definition to include "injury arising out of one or more of the following offenses committed during the policy period: (1) false attest, detention, imprisonment, or malicious prosecution; (2) wrongful entry or eviction or other invasion of the right of private occupancy; and (3) a publication or utterance of a libel, slander, or other defamatory or disparaging material."

As you can see, this is much broader coverage for those potentially bankrolling third-party claimants that seem to consider injury a personal matter. When considering the average annual premium, and the alternatives for leaving the gap open, the endorsement, personally speaking, is a wise investment.

**Visit <http://www.golsanscruggs.com/garage> to read other articles relating to auto services risk management by Kenneth Golsan.**