

CALIFORNIA

MOTORCYCLE ACCIDENT

LAWSUIT GUIDE

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A comprehensive legal guide to motorcycle laws and accidents in the state of California. For more information, contact an attorney at Downtown L.A. Law Group regarding your specific case

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Our goal in preparing this manual is to educate current and potential motorcycle riders on the hazards as well legal implications of riding two-wheel vehicles. While bicycle riders account for only about four percent of registered motor vehicles in the state of California, motorcycle accidents are responsible for nearly sixteen percent of all road deaths, approximately one fifth of all motor vehicle fatalities.

Motorcycle riding can be both a fun and dangerous activity. Motorcycle riders are left exposed, traveling at high rates of speed, and are susceptible to some of the most severe types of injuries on the road. Certainly, all riders should, and most do appreciate the inherent risks associated with bike riding. Although bike safety is of utmost importance for any rider, we will only briefly touch on the safety and driving practices for motorcycle riders. Instead, this guide will focus primarily on the legal laws, ramifications and considerations for California motorcycle riders and motorcycle accidents.

When using this legal guide, remember that it is only a summary of the minimum requirements required by California law. Due to the high level of risk, as well as the severity of injuries, it is highly recommended that motorcycle riders exceed the minimum level of safety, traffic precaution and insurance requirement prescribed in this handbook.

Introduction

Motorcycle laws pertain to all two-wheel motor vehicles on the road. This includes motorcycles in the traditional sense, but also less conventional two-wheel motorized vehicles. California defines the following as two-wheel vehicles for legal purposes:

Motorcycles - a two-wheel vehicle, but could also have three wheels with a seat or saddle

Motor-Driven Cycles - a motor-driven-cycle is similar to a motorcycle, but has an engine of 149 cc or less. These motor vehicles are generally not permitted on freeways.

Motorized Bicycles - motorized bicycles, often referred to as mopeds is a two or three-wheel motor vehicle capable of driving at speeds no greater than 30 mph, has fully operative pedals for human propulsion and has a motor with less than two gross brake horsepower and an automatic transmission.

Motorized Scooter-a two-wheeled vehicle with a floorboard, which runs by human powered propulsion

Motorcycle riders are at a higher risk of accident because they are harder to see, and require a higher level of skill when compared to other forms of transportation. They lack a vital layer of protection available in enclosed vehicles, and require a fervent adherence to safety and law regulations.

Motorcycle Insurance Guidelines

CHAPTER

1

The state of California has very specific insurance requirements for motorcycle riders. Failure to adhere to these guidelines will result in the denial of the motorcycle's registration, and also be grounds for license suspension. The minimum insurance requirements for motorcycle riders are:

\$15,000 liability for bodily injury/death to one person
\$30,000 liability coverage for bodily injury/death to more than one person
\$5,000 liability for property damage

****NOTE** - Although California law does not require drivers to carry uninsured motorist (UM) or underinsured motorist (UIM) coverage on their motorcycle insurance policy, it is highly recommended that all drivers carry high limit coverage. UM and UIM coverage covers drivers when an at fault party either does not have insurance, or does not have enough insurance coverage to cover damages.

Most California drivers only carry a minimum coverage of \$15,000, and motorcycle accidents often result in exceedingly high medical bills and damages, leaving the driver in the dark.

California law requires that drivers maintain proof of financial responsibility at all times while driving. This requirement can be established by purchasing liability insurance coverage, as mentioned above, or through:

- ✓ Making a cash deposit of \$35,000 with the California Department of Motor Vehicles (DMV)
- ✓ Get a surety bond in the amount of \$35,000 from a licensed company
- ✓ Obtain a self-insurance certificate from the California DMV

In addition to insurance guidelines, California requires strict adherence to motorcycle laws while riding a bike throughout the state. While motorcycle laws might, at first blush, seem to hinder the use and enjoyment of motorcycle riding, these laws are essential to keeping all riders safe. Below is an overview of all California motorcycle laws.

HELMETS



Wearing a helmet is not only required in California, but is the single most important safety mechanism for reducing the rate of fatality and severity of injuries in motorcycle accidents. According to the National Highway Traffic Safety Administration (NHTSA), helmets have saved nearly 20,000 lives between 1986 through 2006 alone. They further concluded that helmets are 37 percent more effective at preventing fatalities compared to riders not wearing helmets. Helmets further protect riders from eye injuries and accidents from flying dust or particles from other vehicles, as well improving riders ability to hear by reducing wind noise, making riders more alert.

Not all states require riders to wear helmets, but California does. California requires all drivers AND passengers to wear a DOT approved safety helmet at all times. Helmet speakers are allowed, but only single earphones.

On Road Motorcycle Laws



Headlights	Functional headlight for nighttime riding. Daytime use of headlights required for motorcycles built on or after 1978
Front and rear brakes	Required
Handlebar Height	Motorcycle driver's hands should be placed no more than six inches above the shoulder when hands are placed on the grips and rider is seated.
Lane Splitting	Allowed
Passengers	Seat and helmet are required for passengers; no age restrictions for passengers
Muffler	Required on all motorcycles, and may not be outfitted with a cutout, bypass or analogous device
Eye Protection	Not required
Mirrors	Both left (L) and right (R) mirrors required

What to do After a Motorcycle Accident

CHAPTER 3

How you act immediately following a motorcycle accident is incredibly important. While safety following an accident is always of chief importance, below are some helpful tips if you were involved in a motorcycle accident in California:

- ➔ Do not leave the scene of the accident and make certain everyone is safe
- ➔ Never speak to the other party regarding fault: any statement made can be used by an insurance company to deny or limit liability.
- ➔ Contact the police: Make sure law enforcement officials come to the scene of the accident and make a report
- ➔ Get all the facts: You will need all of the proper information from the other driver. This includes their: (1) Driver's license; (2) Car registration; (3) Contact information and (4) Insurance information.
- ➔ Take pictures: Take pictures of not only your motorcycle, but also of the other vehicle (if applicable) as well as the scene of the accident.
- ➔ Ask for help: ask for contact information from any witnesses who witnessed the accident. Even though the other party might be admitting fault, far too many times they change their story once the initial shock of the accident has subsided.
- ➔ Never make a statement: to the other party's insurance company. Insurance adjusters are adept at tricking individuals into making wrongful statement that could prove costly to their case.
- ➔ Don't accept a settlement offer: until after you have finished treatment. Once a settlement is reached, a motorcycle accident victim is no longer entitled to compensation no matter how bad the injuries are. In California, there is a 2 year statute of limitations to file a lawsuit after an accident.

How Much is a California Motorcycle Accident Claim Worth?

C H A P T E R 4

No attorney can accurately assess the value of a motorcycle accident claim until after all the variables are considered. Even in instances where a qualified personal injury attorney has all the facts, it is still nearly impossible to quantify the true value of a case until after a case nears settlement or trial. This is because these variables can change significantly as time passes.

For example:

- ◆ The injuries are far greater than previously anticipated. Compensation is heavily tied to a victim's medical bills, and these bills are impossible to compute early in the process.
- ◆ The severity of damages. Injuries that might seem temporary, might actually be permanent.
- ◆ At-fault party's policy limit. Insurance companies are only responsible for their insured's policy limits. In California, the minimum amount of bodily injury coverage for car insurance policies is \$15,000. Anything in excess of the policy limits would have to be recovered from the driver themselves, or from the motorcycle driver's own uninsured/underinsured motorist policy.
- ◆ Pain and suffering- while bodily injury damages can be quantified by medical records, expert testimony, or precedent, it is almost impossible to do so for pain and suffering immediately following the accident. Pain and suffering fall under the category of "general damages" and the amount of general damages are discretionary. Every person is affected differently, and therefore the strain of the accident is not fully known until long after the accident occurred.

Even though no person can accurately determine the amount of a potential settlement or verdict, there are several factors that are used to value a motorcycle accident case.

These factors include:

- ◆ Past medical bills - any hospital or medical bills attributed to the accident
- ◆ Future medical bills - bills that will be incurred as a result of the accident, including future care.
- ◆ Loss of income - money lost as a result of time away from work, including overtime and benefits
- ◆ Loss of earning potential - how much less money a victim will make as a result of the motorcycle accident. Often times requires the use of a vocational expert.
- ◆ Pain and suffering

A NOTE ON STATUTE OF LIMITATIONS:

Statute of limitations is the amount of time a person can file a lawsuit for specific legal matters. Each state has different statute of limitations laws for different matters. In California, an individual involved in [a motorcycle accident](#) has **TWO YEARS** to file a lawsuit against the at fault party.

Failure to file a claim within the statutory period could result in complete bar of a claim. There are certain exceptions to the 2 year rule, however, such as for minors. The statutory period is only 6 months when filing a claim against a government entity. For more information, please contact a personal injury attorney.

Most Common Motorcycle Accident Injuries

C H A P T E R 5

As previously noted, motorcycle accidents result in more severe degree and types of injuries compared to accidents with other motor vehicles.

The most common injuries from motorcycle crashes are:

Road Rash - road rash, or road burns occur when motorcycle riders are thrown off or dragged by their bike, and an individual's bare skin comes into contact with the pavement. Road rash injuries can vary greatly in degree and type. Avulsion injuries are those that tear away at all layers of the skin. Compression injuries occur when limbs get stuck between objects, usually the bike and the pavement. Scrapes are open wounds that can form into small scratches or serious open wounds. Road rash can leave a victim with painful and even permanent scars that could require several skin grafts.

Spinal Cord Injuries - spinal cord damage can occur in motorcycle accident victims when there is elevated trauma to the back, neck or head. Motor vehicle accidents in general are the most common cause of spinal cord injuries, and the risk of injury is highest for motorcycle riders. Spinal cord damage can result in complete paralysis, or partial loss to legs, arms and parts of the body.

Fractures / Broken Bones - Motorcycle riders are left exposed, and are often thrown off their bike, leaving the potential for fractures on every one of their bones. Broken bones are also frequently accompanied by serious skin abrasions and road rash. The type and severity of the broken bone depend on the type and severity of the fall, but certain broken bones occur more often in motorcycle accidents than others. Wrist fractures are common, as riders attempt to brace their fall after being ejected from the motorcycle. Broken hip, femur, clavicle and rib and ankle bones are also quite common in motorcycle accidents.

Traumatic Brain Injuries (TBI) - Head trauma is common in motorcycle accidents, giving rise to mandatory helmet laws in the state of California. Head injuries are responsible for roughly fifty percent of all motorcycle related fatalities, while ninety percent of those in accident experience some form of head trauma. A traumatic brain injury, or TBI occurs from sudden trauma to the head. Most alarming however is that many motorcycle accident victims are not immediately aware that they have suffered a TBI until days or even weeks after the crash.

Common TBI symptoms include:

- ❖ Blurred vision
- ❖ Confusion
- ❖ Lightheadedness
- ❖ Concussion
- ❖ Dizziness
- ❖ Blurred Vision
- ❖ Tingling sensation in the mouth, tongue or fingers
- ❖ Fatigue
- ❖ Ringing in ears

It is imperative to receive immediate medical attention if a person is suffering from these symptoms after an accident.

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