The Complete Legal Guide to

VOL. 2

Michigan Motorcycle Law & Insurance

Everything You Need to Know About Motorcycle Insurance & Michigan's No-Fault Law

877-BIKER-LAW

by Jason Waechter
THE Motorcycle Lawyer[sm]

IMPORTANT NOTICE:

Don’t be naive and get taken advantage of by the insurance company!

I’ve received many calls from victims of motorcycle injury accidents who’ve said:

“I wish I’d called you first. The insurance adjuster said I did not have to have a lawyer and they promised to make me a fair offer. The adjuster was nice. They had me give a recorded statement, sign papers to get my medical record. Then, I waited. Then they needed more information, and I waited some more. After months of my begging them, they finally gave me a low-ball offer. I hope I didn’t hurt my case.”

Well, sometimes this does hurt your case.

1. Don’t ever talk to the negligent driver’s insurance company, let alone give a recorded statement.

2. Don’t sign anything unless a lawyer reviews it first. Signing the insurance company’s blank ‘Records Authorization’ allows them to potentially get all your life-long medical records from every source, your employment files and wage information, your tax records, and run credit reports on you.

3. Call a specializing, experienced lawyer immediately.

Jason A. Waechter

Jason A. Waechter
THE Motorcycle Lawyersm

Attorney Jason A. Waechter is a Michigan attorney specializing in motorcycle injury and wrongful death litigation for over 25 years and has handled over 1,000 motorcycle cases. Jason literally, "wrote the book" – he authored *Litigating Motorcycle Injury & Wrongful Death Cases*, a book for personal injury attorneys.

Some honors include:

Giving Back to the Motorcycle Community: His firm's accident prevention campaign includes billboards and bumper stickers reminding other drivers to keep a look-out and share the road. His sponsored **Bystander Assistance Class** has patched over 2,500 motorcyclists, teaching them basic first aid and accident scene management.

Member: American Bikers Aiming Toward Education (ABATE), American Motorcycle Association (AMA), UNIDO

Our Motorcycle Results

$2,000,000 Verdict
Road construction negligence

$2,000,000 Settlement
Road construction defect

$1,500,000 Settlement
Broken leg corporate vehicle

$1,400,000 Settlement
Elderly driver turning left

$1,250,000 Settlement
Disputed liability

$1,200,000 Arbitration
Severe injury to internal organs

$1,000,000 Settlement
Motorcycle hit by semi-truck

$975,000 Settlement
Motorcycle accident

There is never a fee, unless we collect for you.

For free advice and case evaluation after a crash, or for possible representation,

Call Attorney Jason Waechter!

Toll Free: 1-877-BIKER-LAW

(1-877-245-3752)

Local: (248) 355-4701

Office Locations

Southfield ▪ Detroit ▪ Flint ▪ Grand Rapids ▪ Ann Arbor ▪ Mt. Clemens

www.TheMotorcycleLawyer.com www.MotorcycleLawyerMichigan.com

I. Introduction

After major changes to Michigan's Motorcycle and No-Fault laws, Jason Waechter, THE Motorcycle Lawyer wrote 13 new eBooks. His eBooks educate Michigan motorcyclists on legally protecting themselves before a wreck, their claims after a wreck, clarifying motorcycle misinformation, advising how to maximize your injury compensation, and so much more. Rather than inundating you with multiple emails for all the titles you selected, we combined all of them into two complete legal guides:

Vol.1 Michigan Motorcycle Compensation
Vol.2 Michigan Motorcycle Law & Insurance

This eBook is *Vol.2: Michigan Motorcycle Law & Insurance*. It features all the information in our eBooks about insurance, Michigan's No-Fault Law, and how it applies to motorcyclists.

The other complete legal guide, *Vol.1: Michigan Motorcycle Compensation*, features Claims and Lawsuits for Money Damages a Motorcyclist May Have after an Accident, 5 Secrets to Maximize Your Injury Compensation, Michigan Motorcycle Accident Tips, The 3 Claims After a Michigan Motorcycle Accident, and more.

II. Table of Contents

BEST Advice for Michigan Motorcyclists

Best Advice for Michigan Motorcyclists

1. Have health insurance. Motorcycle wrecks can come with many medical bills. Depending on how the crash occurs, an auto/No-Fault insurance policy may not have to pay them. You can be stuck with hundreds of thousands of dollars of medical bills unless you have health insurance.

2. Insure your bike. It's the law. More importantly, if you do not have insurance on your motorcycle, you are not entitled to No-Fault benefits which include payment of medical bills, household chores, medical transportation, and wage loss benefits (in crashes that 'involve' a car, truck or van).

3. Have Uninsured and Underinsured motorist insurance coverage on your bike (and other vehicles). This valuable insurance coverage pays YOU if the negligent driver who hit you does not have insurance or enough insurance.

4. Choose Unlimited PIP Medical (or as much as you possibly can afford) on YOUR CARS, TRUCKS, and VANS (your 'motor vehicles'). Why? Because if you get in a wreck and the at-fault driver is uninsured, your No-Fault benefits will come from insurance on YOUR motor vehicle (car, truck or van, not motorcycle).

   FYI: You cannot buy No-Fault insurance on a motorcycle. No-Fault benefits never come from your motorcycle insurance. You can purchase 'First Party Medical' coverage on your motorcycle. Talk to your insurance agent to see if it is right for you. I don't recommend it if you have health insurance that covers vehicle accidents.

5. After any crash, speak to a specializing attorney who has extensive experience litigating motorcycle injury accidents. Call me; I will personally apply the specific facts of your situation to the current law. I've handled over 1,000 motorcycle cases. Your rights and ability to recover depend on the specific facts of the accident, who owned the bike, and what kind of insurance covers all involved. I have read letters from 'personal injury' lawyers who say they do motorcycle crash cases, but who inaccurately advise injured motorcyclists.

No-Fault
Law
&
PIP
Medical
Choice

No-Fault Law & PIP Medical Choice For Michigan Motorcyclists

This section explains Michigan's current No-Fault Law and advises how to protect yourself from new risk and medical bill exposure.

Insurance Information to Help You Understand This Guide

No-Fault Benefits (PIP): "PIP" stands for **Personal Injury Protection** and relates to the No-Fault (or PIP) benefits we receive after a "motor vehicle' crash. Coverage for No-Fault benefits include payment for:

1. Medical Expenses (PIP Medical): Up to the amount chosen by the insured;
2. Wage Loss: Presently a maximum of about $5,800 a month for up to 3 years;
3. Household/Replacement Services: Maximum of $20 per day for up to 3 years;
4. Medical Transportation or Mileage; and
5. Attendant Care (part of medical expenses).

Bodily Injury Coverage (BI) pays for injuries and damages a driver causes to other people. For example, say you rear ended someone when traffic backed up and the guy you hit suffered a broken leg. If he claims or sues you for pain and suffering, disfigurement, excess wage loss, excess medical bills (not covered by No-Fault or paid by Medicaid / Medicare), or other applicable damages, this insurance pays and protects you.

Uninsured Motorist Coverage (UM) is additional coverage you buy on your motorcycle or vehicle that pays you for your damages (which may include lost wages, medical expenses, pain and suffering, depending upon the terms of your UM policy) if the negligent driver that hit you is uninsured or is unknown (hit & run).

Underinsured Motorist Coverage (UIM) is additional coverage you buy on your motorcycle or vehicle that pays you for your damages (which may include lost wages, medical expenses, pain and suffering, depending upon the terms of your UIM policy) if the negligent driver that hit you did not have enough insurance (he was UNDER-insured) to cover all your compensable damages.

Umbrella Policy is extra liability insurance that covers beyond the limits of your home, auto, motorcycle, RV or watercraft insurance. It is an inexpensive way to get more bodily injury coverage for multiple items you insure. Make sure the policy also includes Uninsured and Underinsured coverage.

BIGGEST RECENT LEGAL CHANGE #1: We Now Choose Amount of PIP Medical

For the first time in Michigan's No-Fault history, beginning July 1, 2020, we have to choose the amount of PIP Medical coverage for our "motor vehicles'" (cars, trucks, vans, *not* motorcycles).

Michigan No-Fault Medical coverage *used* to pay for *all* auto-injury related medical bills *for life*. It was the best coverage in the country. We now must choose our desired amount of PIP Medical coverage. The choices are:

Unlimited PIP Medical coverage (same as old law)

$500,000 PIP Medical coverage

$250,000 PIP Medical coverage

Qualified Medicaid recipients: $50,000 coverage

A "Qualified Person" may opt out entirely: Available only to those with other "Qualified Health Insurance" or Medicare that covers car accidents injuries.

Caveat: If you choose $50,000 or opt out, you better make sure you are in fact "Qualified" as defined under the law. People may assume or be told that they were "Qualified," and then after a loss occurs, learn that they were not Qualified, resulting in the insured (you) being stuck with all the medical bills.

A "Qualified Person" has Medicare or "Qualified Health Coverage," defined as health or accident coverage that does not exclude or limit coverage for injuries related to motor vehicle accidents and for which the individual deductible is $6,000 or less per individual. In addition, the Qualified Person's spouse and all his/her relatives residing in the household must have either 'Qualified Health Insurance' or No-Fault benefits from other sources.

Author analysis: Most people don't know if their health insurance excludes coverage for auto-related injuries. When people call to ask, they may be told and rely on inaccurate, bad information.

You now need to know the insurance coverage for all resident relatives in your household. You can assume that if you get any of this wrong, your claim for No-Fault PIP Medical benefits will be denied—potentially leaving you with hundreds of thousands of dollars in medical bills.

Example: Assume the following for this example: You have Qualified Health Coverage, and your adult son lives with you. Your son has No-Fault coverage from his own insurance company. Since you meet the two requirements to be a Qualified Person, you choose $50,000 of PIP Medical coverage. Months later, your son's No-Fault policy lapses for not paying his bill. Then, you have an accident in your vehicle. You are no longer a "Qualified Person" because there was an uninsured resident relative in your household at the time of the accident. Your No-Fault carrier could void your entire policy and not have to pay for the collision damage, your medical bills, or provide liability coverage if you get sued.

BIG CHANGE #2 : Increase in Mandatory Minimum Bodily Injury Coverage

The old law required drivers to carry a minimum of $20,000/$40,000 worth of bodily injury coverage. This means $20,000 worth of coverage for any one person injured and up to $40,000 for two or more persons in the same car crash. The new law increases those minimum limits to $250,000/500,000—or so the insurance industry promised in its public relations claim trying to get people to accept the proposed changes.

Actually, the insurance industry inserted an exception into the $250,000/$500,000 minimum bodily injury limits law. It says anyone who signs a certain 'form' that explains the choices and risk, can reduce this coverage to $50,000/$100,000.

Author analysis: Insured negligent drivers will now have higher bodily injury insurance limits if they choose the minimum coverage. This is great for the person they injured. However (as detailed below), the bodily injury coverage may have to be used to pay the injured person's noncovered medical bills or to reimburse his/her health insurance liens, leaving the injured victim with little to no recovery for pain and suffering.

Higher coverage limits will mean higher premiums, so any savings realized in lower PIP Medical premiums may be offset by increased payments for BI coverage.

Finally, the insurance industry touted a higher BI minimum of $250,000 to cover all the new risk of increased medical bill exposure on the BI claim. A closer look reveals that this too is a deception. For example, say you are injured on your motorcycle when a car driver rear ends you, the PIP Medical coverage is only $50,000 and your medical expenses exceed $300,000, the $50,000 PIP medical coverage combined with the $250,000

BI coverage is not even enough to fully pay all your medical bills. There is no insurance coverage left to pay you pain and suffering compensation. Now money that used to go into victims' pockets, will go to doctors and hospitals.

BIG CHANGE #3: New Risk & More Exposure: You Can Now Be Sued for Medical Bills

The new law creates greater liability if you cause a crash. Before July 1, 2020, you could not be sued for the other guy's medical bills even if the crash was your fault. After July 1, 2020, you can be sued for all the other person's medical bills not covered by his PIP Medical coverage.

If the injured person chose, $50,000 PIP Medical and his medical bills are $250,000, you can be sued for the $200,000 difference. Keep in mind you can also be sued for his injury (pain and suffering) and excess wage loss. Because of this new exposure, you should buy more Bodily Injury coverage.

CRITICAL ADVICE: The new law exposes you to new liabilities. To protect yourself and your family, you should purchase more Bodily Injury coverage, more Uninsured Motorist Coverage, more Underinsured Motorist coverage and maybe even an Umbrella Policy.

Most Horrible Law for Motorcyclists!

PIP Medical does not apply to motorcycles. The cost of cycle policies will not be lowered because we can't buy 'No-Fault" (specifically PIP Medical) on our motorcycles. Further, a motorcyclist is entitled to PIP/No-Fault benefits, ONLY when a "motor vehicle" (car, truck or van) is "involved" in the crash.

Once motor vehicle involvement is established, we next look at what's called the Order of Priorities to see which insurance company is obligated to pay the motorcyclist's No-Fault benefits. The company first in line for a motorcyclist's No-Fault benefits (including PIP Medical) is the insurer of the motor vehicle involved in the crash. Because we now choose the amount of PIP Medical coverage, the motorcyclist's coverage for his or her medical bills is the amount chosen by the driver of the car involved in the crash.

Stated another way, Michigan motorcyclists who qualify for No-Fault benefits are now at the mercy of the PIP Medical amount chosen BY THE GUY THAT HITS THEM! Before July 1, 2020, a biker hit by a 'motor vehicle' ALWAYS received unlimited, lifelong medical coverage. Now, that same motorcyclist may only have $50,000 of his/her medical bills paid if that is the amount of coverage the negligent driver chose.

Advice to Motorcyclists:

1. Have health insurance. Motorcycle wrecks often happen without a ‘motor vehicle’ involved which would provide PIP Medical coverage. PIP Medical does not pay for wrecks with deer, road defects (potholes), loose gravel, or other motorcycles.

2. Purchase as much Uninsured Motorist coverage and Underinsured Motorist coverage as possible on your motorcycle.

3. Choose unlimited (or as much as you possibly can afford) PIP Medical on YOUR CARS, TRUCKS, and VANS (your ‘motor vehicles’). Why? Because if you get in a motorcycle wreck and the at-fault driver is uninsured or unknown (hit & run), your No-Fault benefits will come from insurance on YOUR motor vehicle (car, truck or van, not motorcycle).

FYI: You can’t buy No-Fault insurance on a motorcycle. No-Fault benefits never come from your motorcycle insurance. You can purchase ‘First Party Medical’ coverage on your motorcycle. Talk to your insurance agent to see if it is right for you. I don’t recommend it if you have covering health insurance.

Action Items for Choosing Motor Vehicle Insurance:

1. Choose unlimited PIP Medical on your personal “motor vehicles” if you can afford it. This applies only to cars, trucks, and vans. Motorcyclists can’t purchase No-Fault/PIP on a motorcycle.

2. Purchase as much Uninsured Motorist (UM) coverage and Underinsured Motorist (UIM) coverage as you can afford on all vehicles, including motorcycles. The more the better. Recommendation: $1,000,000 is great; minimally $250,000.

3. Increase your Bodily Injury coverage limits because, if you hurt someone, they now can come after you for unpaid medical bills. I recommend $500,000 or even $1,000,000 if you can afford it. I don’t think anyone should have less than $250,000.

4. Consider purchasing an Umbrella Policy which is additional bodily injury coverage that applies not only to your vehicles, but also your watercraft, RV, cottage and home. Some umbrella policies include Uninsured Motorist (UM) and Underinsured Motorist (UIM) coverage. Seek out an umbrella policy that includes UM and UIM.

No-Fault Choice Recommendations for your Cars, Trucks & Vans
Depending upon your Income and Assets

Logically, a person who has significant assets, should have more insurance than someone who has very limited assets. Here are three different scenarios and my recommendations for AUTO insurance coverage considering the respective risks and cost in each case. Remember, you cannot purchase No-Fault or PIP Medical for your motorcycles. Except for the PIP Medical Choice recommendation, the other recommendations do apply to motorcycles policies.

1. **Person with Significant Assets:** If you own your house, have a well-paying job, have significant savings in the bank, I recommend the following:

   PIP Medical Choice: Unlimited

   Uninsured Motorist: $1,000,000

   Underinsured Motorist: $1,000,000

   Bodily Injury: $1,000,000

   Umbrella Policy: $1,000,000 (Make sure it also includes Uninsured and Underinsured coverage on it. Make sure the policy language says that it pays over and above what your underlying auto policy pays.)

2. **Person with Moderate Assets:** This person may have a house with a mortgage, has a decent job, and a little savings. My suggested advice is below. However, the more insurance, the better. Only you can evaluate your situation, the risk and the cost.

   PIP Medical Choice: Unlimited is always best. I can understand $500,000 for this person, but not less than $250,000.

   Uninsured Motorist: $1,000,000 is best. I can understand $500,000 for this person, but never less than $250,000.

   Underinsured Motorist: $1,000,000 is best. I can understand $500,000 for this person, but never less than $250,000.

   Bodily Injury: $1,000,000 is best. I can understand $500,000 for this person, but never less than $250,000.

   Umbrella Policy: Price one out. It should only be a few hundred dollars. Usually, the insurance coverage amount is $1,000,000. Make sure it also includes uninsured and underinsured coverage.

3. Person with Limited Assets: This person does not have many assets. He may rent his residence, lives paycheck-to-paycheck, or is on Social Security. Here is a recommendation:

    PIP Medical Choice: Unlimited is always best, however, I understand the need to save money. I recommend at least $250,000. If you qualify for and chose $50,000 or none at all, make sure you actually qualify for those options and continue to qualify for the entire term of the policy. If you select either of these options, understand your risks.

    Uninsured Motorist: You should have it, the more the better. Price it and choose what you can afford. Try to get at least $250,000 coverage.

    Underinsured Motorist: You should have it, the more the better. Price it and choose what you can afford. Try to get at least $250,000.

    Bodily Injury: The new minimum is $250,000. Get this. It is true that if you sign a form, you can get $50,000, but I do not recommend it. $50,000 in my opinion is too little coverage given all the risk and exposure under the new law.

    Umbrella Policy: Persons with limited assets usually do not buy umbrella policies, which are not required and cost extra.

Other No-Fault Changes

Attendant Care: Accident victims often need nursing-type assistance to take care of their basic needs such as bathing, toileting, getting dressed, ambulating, assisting with medication, etc. These services are called Attendant Care. Family members and friends can be paid for taking care of the injured person after a crash.

Effective July 1, 2021, the new law will restrict Attendant Care provided by family and/or friends to 56 hours per week. This is drastically different from 168 hours per week available under the old law. If Attendant Care is required in excess of 56 hours per week, the excess must be provided by a professional facility or other professional caregivers to be paid by No-Fault.

Less Injury Compensation Left for Injured Victim: A government agency or a company with a contractual right, often must be paid back any money it paid for medical bills related to an auto accident. If the injured victim receives money damages in the negligence claim/lawsuit, any medical bills not paid by No-Fault may have to be repaid by the victim or out of the victim's injury proceeds. Under the old law this was extremely rare because Medicaid or Medicare never (rarely) paid medical bills because the No-Fault carrier was required to pay all accident-related medical bills.

Mini-Tort Increased: In a typical auto accident, our No-Fault Law does not allow you to collect money for damage to your motor vehicle from the at-fault driver. You decide whether to buy collision coverage which will repair or replace your vehicle. You may collect from the at-fault driver or his insurance company the amount you paid out-of-pocket, usually your deductible, for your car, truck or van (not motorcycle), but only up to the Mini-Tort amount. This is called the Mini-Tort Law. The current Mini-Tort amount is $3,000.

This also applies to persons who only have Personal Liability and Property Damage coverage (PLPD). If you only have PLPD and your car is totaled, you can collect up to $3,000 for its damage. The Mini-Tort amount increased to $3,000 on July 1, 2020.

Once again, motorcyclists are treated differently under the Mini-Tort Law. Collision damage to a motorcycle cannot be claimed against a negligent car, truck or van operator, not even the deductible. There are three exceptions, if the motorcycle is reasonably parked, if the negligent driver is uninsured, or if the damage was caused by a negligent motorcyclist.

Zip Codes & Credit Scores Cannot Be Used for Rates (not really): The law changed in 2020 as to what information insurance companies can use to calculate an auto insurance premium. Insurance companies are not allowed to use these factors: sex, marital status, education level, home ownership, occupation, the zip code where the insured lives, or credit score.

Analysis: On its face, the zip code and credit score restrictions seem to be a big win for consumers. However, the insurance lobbyists inserted language allowing the use of 'territory' (potentially the size of a neighborhood) and "underlying credit data or credit information" to be considered. Therefore, the zip code and credit score restrictions are essentially meaningless.

Doctors and Hospitals Will Now Be Paid Less: Under the old law, doctors were paid a "reasonable and customary" amount. The new law implements a No-Fault fee schedule based on the Medicare fee schedule. Doctors will be paid within a range of 190% to 250% of the amount payable under Medicare. This fee schedule goes into effect July 1, 2021. The No-Fault fee schedule will pay significantly less than what was paid under the old law.

Analysis: Even if the doctor receives double what Medicare pays, most doctors I polled state that it is not a reasonable amount. As a result, I foresee fewer doctors accepting motor vehicle accident patients, and many medical facilities closing their doors altogether.

The MCCA Surcharge: A Little Savings Here

The Michigan Catastrophic Claims Association (MCCA) is a private non-profit unincorporated association. It was created by the state legislature in 1978. Michigan's unique auto insurance No-Fault Law used to provide for unlimited lifetime coverage for medical expenses.

The MCCA reimburses auto No-Fault insurance companies for each Personal Injury Protection (PIP No-Fault) medical claim it paid over a set amount. Currently that amount is $580,000. This limits the total medical exposure that any insurance company has for any one claim to $580,000.

As part of our 'old' unlimited medical coverage, everyone with a vehicle policy (cars, truck, vans and motorcycles) paid a fee to the MCCA to fund its reimbursements to insurance companies. Now that we have PIP Medical choice, only those insuring a car, truck, or van who chose unlimited PIP Medical are required to pay the fee. All those who insure a motorcycle still have to pay this fee.

Let me say that a different way. Motorcyclists still must pay the fee, but now folks who chose something less than unlimited PIP on their cars, trucks, or vans do not pay the fee.

This new law reduces the fee from $220.00 to $100.00, so there is a little savings here.

Because the new law allows us to choose PIP Medical less than $580,000, anyone who chose $500,000 or less, does not have to pay the $100 fee because they can never have a claim that will reach the MCCA. Therefore, if you choose $500,000 or less for PIP Medical, you will save $100.00.

As a citizen, you have no right to make a claim with the MCCA, even if you are the victim of a motor vehicle collision. The MCCA fund exists to protect insurance companies from having to pay unlimited medical themselves.

Summary Analysis of No-Fault Law & PIP Medical Choice for Michigan Motorcyclists

The changes made to the No-Fault law in 2020 are great for insurance companies, which will save millions of dollars. The insurance industry promised "lower rates," but the percentage reductions only apply to one line-item-- PIP Medical coverage. Using my personal car as an example, if I were to choose $500,000, the discount would amount to a mere $36.00 savings for the year.

On the further downside, there will be an increase in the required Bodily Injury coverage so your premium for BI coverage will increase. There is also new risk and greater liability since beginning July 1, 2020, you can be sued for non-covered medical bills of the other person involved in the accident. With the risk of this greater liability, you should purchase more Bodily Injury coverage than the minimum amount required, which in turn increases your premium.

I foresee disastrous results. Some folks will choose to opt out of PIP Medical only to learn after an accident that they were not a “Qualified Person” allowed to do so. If that happens, they could be stuck with all the medical bills.

Anyone severely injured could face extreme personal hardship. Attendant care paid to families is reduced from 168 possible hours per week to 56 hours as of July 1, 2021. Our health insurance premiums will likely increase since health insurance will pay more auto-related medical bills.

An injured victim’s claim for pain and suffering compensation often will be reduced to little or nothing because the proceeds will be used to pay medical and other liens.

Lastly, and perhaps most unfair, an injured motorcyclist who once received unlimited lifelong medical is now at the mercy of whatever the driver of the involved motor vehicle in the accident chose for No-Fault PIP coverage, leaving the motorcyclist to possibly pay medical bills out of his/her own pocket.

Michigan Motorcycle Insurance: Without It, You're F*CKED!

I purposely use profanity in this title to get your attention - it is that important. Why do I advise you to "Insure your bike?" Well, it is the law, and if you do not have insurance, you can get a ticket. However, much more importantly, if you are the operator and owner of an uninsured motorcycle, you are not entitled to No-Fault benefits which may include payment of all medical bills for life, medical transportation, up to three years for household chores and up to three years of wage loss.

I've talked to many bikers who are personally stuck with over $100,000 worth of medical bills that would have been paid if they just had purchased basic, minimal bodily injury coverage (PLPD) that makes them legal.

Another horrible fact: If you do not insure your motorcycle, a police officer can impound it. There are a few cops who are known for doing this.

RECOMMENDED MOTORCYCLE INSURANCE

As an attorney who has been involved in over 1,000 motorcycle crashes, claims, and lawsuits, I recommend the following insurance for Michigan motorcycle owners:

I. **Bodily Injury Coverage:** You must have this type of coverage to be legal. We recommend at least $250,000 of bodily injury coverage. However, only the most basic policy with minimum limits is required. This protects you and pays for another person's injuries if you were negligent. With motorcycles, it usually covers your passengers, pedestrians, or other motorcycles.

II. **Uninsured Motorist Coverage:** You may still be able to recover compensation for your injuries even if the other vehicle and driver are uninsured or unknown. This can pay for your noncovered medical bills, excess wage loss, and your pain and suffering compensation when the negligent driver has no insurance. This may be true even if you can't identify the other driver – for example, in a hit & run incident. To recover in these situations, you must have Uninsured Motorist Coverage. Physical contact between the vehicle is often required. We recommend at least $250,000, the more the better because this directly benefits you.

III. **Underinsured Motorist Coverage:** If a negligent driver/owner causes an accident and has a small insurance policy that does not adequately compensate you for your injuries (if he or she is UNDER-insured) and does not adequately pay for your noncovered medical bills or excess wage loss, then you may obtain additional money for these damages from your own insurance company if you have Underinsured Motorist Coverage. We recommend at least $250,000.00. The more the better because this allows the injured Michigan motorcyclist to collect more for his/her injuries, excess wage loss and pay medical bills he/she may be stuck with.

WARNING: If you settle with one insurance company, it could compromise your ability to collect from another company, including the underinsured motorist coverage of No-Fault benefits. Call us first.

IV. **Collision Coverage:** It is up to you if you wish to have Collision Coverage or not; it is not mandatory. Michigan law does not allow you to pursue your vehicle (car, truck or motorcycle) damage against the at-fault driver or his insurance company. Do not just get PLPD thinking you can make the other guy pay; you can't. Car, truck, and van owners can recover their out-of-pocket damages from the at-fault driver or his insurance company.

This is called the Mini-Tort exception which allows a recovery up to $3,000. Usually, it reimburses the deductible if you had Collision Coverage. For folks who do not have no Collision Coverage it can be their total damages, but, again, the maximum recovery is $3,000.

You must decide if your motorcycle is worth replacing or fixing. The Michigan collision law is worse for motorcycles than for cars and trucks. You cannot make the at-fault driver even pay your deductible like a car owner can. Therefore, choose your deductible amount as if it will never be returned to you in the event of a loss.

There are three exceptions where you can pursue the negligent driver for motorcycle damage. Those exceptions are:

1.) if the negligent driver was uninsured

2.) if your motorcycle was reasonably parked

3.) if the damage was caused by a negligent motorcyclist.

Collision coverage applies to all of your vehicles. There are three types:

1.) **Limited Collision:** Provides coverage only if you are not at-fault.

2.) **Standard Collision:** Provides coverage regardless of fault and you always pay your deductible.

3.) **Broad Form Collision:** Provides coverage regardless of fault, and if it was not your fault, you don't have to pay your deductible.

V. Medical Coverage: This is additional coverage that you can purchase on your motorcycle. If you have health insurance that does not exclude motorcycle injuries, it is not necessary in my opinion. If you ride without a helmet, you must have at least $20,000 of First Party Medical Coverage to be legal.

VI. Custom Work / Accessories Coverage: Most basic collision policies for Michigan motorcycles only cover a stock bike and maybe $1,000 worth of extras. If you have customized your motorcycle, you may want to purchase an Accessories Insurance Rider. Ask your agent if any accessories or customizations comes with your standard Michigan motorcycle policy then decide if you need more

Storing Your Motorcycle for the WINTER

When you store your motorcycle for the winter, some people believe they can cancel their motorcycle insurance policy because it will be stored in your garage and, after all, you have Homeowner's Insurance.

Here is a harsh legal truth:

Your homeowners insurance does NOT cover your motorcycle!

Some folks try to save a few bucks by cancelling their motorcycle insurance during the colder months. If you do this and your bike is damaged, *you are stuck with the bill.* Your homeowners won't pay.

Here are some examples of unfortunate events that won't be covered if you cancel your motorcycle insurance policy:

- Your motorcycle is stolen
- Your garage floods
- Your garage catches on fire
- Your roof leaks or falls in
- A tree blows over during a storm, hitting garage
- Rodents chew seat and wiring
- And of course – You cannot help yourself…on the first beautiful day in March or April and you take a short ride down the street. If you wreck, you're screwed. There is no coverage for the damage.

To be safe, I just leave all my motorcycle insurance on my bike for the winter. If you really need to save every penny, you can drop your Bodily Injury and Collision coverage but keep the Comprehensive Coverage. Comprehensive is what pays for theft, vandalism, falling objects, fire, storms, flood and natural disasters.

Which Insurance Co. Pays No-Fault Benefits for a Motorcyclist?

If you are operating or riding on a motorcycle and you are involved in an accident with amotor vehicle (a car, truck, van, but not another motorcycle), the automobile insurance cmpany that is responsible for paying your No-Fault benefits is determined by the following **Order of Priority**:

1. **Owner or Registrant of the Motor Vehicle Involved:** An injured motorcyclist goes first to the automobile insurance company of the owner or registrant of the involved motor vehicle (*not motorcycle*) for payment of benefits. If the owner or registrant does not have auto insurance, proceed to the next level.

2. **Operator of the Motor Vehicle Involved:** If the operator or the involved motor vehicle (*not motorcycle*) has automobile insurance, that company pays benefits. If the operator is not insured, proceed to the next level.

3. **Insurance Company of the Motor Vehicle (*not motorcycle*) of the Operator of the Motorcycle**: If none, proceed to the next level.

4. **Insurance Company of the Motor Vehicle (*not motorcycle*) of the Owner or Registrant of the Motorcycle**: If none, proceed to the next level.

5. **Spouse or Resident Relative:** If the injured motorcyclist lives with a spouse or relative that has an insured motor vehicle, that insurance company pays benefits. If not, proceed to the next level.

6. **Assigned Claims Facility:** If there is no insurance available at any of the levels described above and there are no exclusions that bar a claim, the Assigned Claims Facility will assign the claim to an insurance company for payment of benefits.

An application for benefits must be made with the correct auto insurance company within one year or benefits do not have to be paid.

The MCCA Legal Guide

Before 1973, anyone in a motor vehicle accident had to pursue the at-fault driver or his insurance company for all damages they suffered. This included damage to the vehicle, lost wages, medical bills, and pain and suffering. The courts were flooded and clogged with too many of these cases.

In 1973 Michigan went to a No-Fault insurance system for motor vehicle insurance and accidents and vehicle insurance was mandatory. Since 1973 and with No-Fault, you do not have to prove whose fault the accident was to be paid wage loss, medical expenses, house chores and medical mileage; these claims are paid by your own insurance company.

Further, under the No-Fault system, damage to your vehicle is handled by your own insurance company and does not matter if the crash was your fault. You choose whether to have collision coverage and the amount of the deductible. If you do not purchase collision coverage, you cannot pursue the negligent, insured driver for damage to your vehicle.

The MCCA

The **Michigan Catastrophic Claims Association** (MCCA) is a private, non-profit, unincorporated association. It was created by the state legislature in 1978. When the MCCA was created, Michigan's unique auto insurance, No-Fault Law provided for unlimited, lifetime coverage for medical expenses.

Insurance companies identified a risk with this system. If an insurance company received a disproportionate or excessive number of catastrophic-type medical claims, they theoretically could go out of business. To reduce this risk, the MCCA was formed.

As a citizen, you have no right to make a claim with the MCCA, even if you are the victim of a motor vehicle collision. The MCCA's fund exists to protect insurance companies from having to pay unlimited medical themselves.

The MCCA Pays Insurance Companies, Not You

The MCCA reimburses auto No-Fault insurance companies for each Personal Injury Protection (PIP No-Fault) medical claim it pays over a set amount (Catastrophic Max).

That set amount is reviewed yearly and adjusted for inflation. Currently, the Catastrophic Max is $580,000. This limits the total medical exposure that any insurance company has for any one claim to $580,000.

As part of our 'old' unlimited medical coverage (from the 1970's to 2020), everyone with a vehicle policy (cars, truck, vans and motorcycles) paid a fee, also called an assessment, to the MCCA to fund its reimbursements to insurance companies. As noted, under this 'old' law, motorcyclists also had to pay the assessment.

On July 1, 2020, PIP Medical choice became the law. We now choose the amount of PIP Medical coverage on our car, truck and van policies. Remember, PIP Medical coverage is part of No-Fault insurance and we cannot buy No-Fault on our motorcycles.

Now unlimited medical is only for those who choose it on their cars, trucks and vans. The idea was lower coverage choices would lower our insurance policies.

The PIP Medical choices are:

> Unlimited PIP Medical coverage
>
> $500,000 PIP Medical coverage
>
> $250,000 PIP Medical coverage
>
> Qualified Medicaid recipients: $50,000 coverage
>
> A "Qualified Person" may opt out entirely: Available only to those with other "Qualified Health Insurance" or Medicare that covers car accidents injuries.

Note that the only choice that is above the $580,000 Catastrophic Max is the 'unlimited' choice.

This new law reduces the MCCA assessment from $220.00 to $100.00, so at least the new law provides a little savings there. The reduced assessment makes sense because the law allows us to choose PIP Medical less than $580,000. Anyone that chooses $500,000 or less, does not have to pay the $100 fee because they can never have a claim that will reach the MCCA.

Therefore, if you choose $500,000 or less for PIP Medical for your car, truck or van's No-Fault policy, you will save $100.00.

Motorcyclists are Shafted by MCCA

Car drivers and motorcyclists are treated differently here. Only those individuals insuring a car, truck or van that choose unlimited PIP Medical are required to pay the MCCA fee. However, everyone insuring a motorcycle must pay this fee.

Not All Motorcycle Accidents Qualify for Medical Payment

Michigan motorcyclists only receive No-Fault benefits IF A 'MOTOR VEHICLE' (car, truck or van) is involved in the motorcycle crash. There are many kinds of motorcycle injury accidents that do not involve a 'motor vehicle.' For example, hitting a pothole or other road defect, striking a deer or dog, going wide on a curve, losing control because of loose gravel or being hit by another motorcycle. In each of these situations there is no 'motor vehicle' involved and thus, no No-Fault benefits/ medical bills will be paid.

I wanted to get an idea of the number of motorcycle crashes that do not involve 'motor vehicles' so I could understand the potential savings the insurance industry was realizing. These companies were collecting an MCCA fee from these motorcyclists, but the risk of MCCA exposure was lower.

I did some research and found 44%-47% of all motorcycle accidents do not involve another vehicle. One resource I used was, Statistic Motorcycle Crashes in Michigan, an Overall Analysis, Sgt Steven Spink, Michigan State Police, 2006. Quoting the document:

> *"Motorcycle Single Motor Vehicle crashes accounted for 47.0% of all motorcycle crashes in 2004. The leading action associated with the motorcycle SMV crash (one out of every four) is a failure to negotiate a curve. The second most frequent action (16.5%) is a collision with an animal. The third most frequent action (10.5%) is a loss of control on a straight road."*

I found another source, the Michigan State Police, The 2018 Year End Traffic Crash Statistics. This report reflects 2,728 total motorcycle accidents that involve death, injury or property damage. Of these accidents, 1,208 were single motor vehicle accidents.

From these 2018 numbers, I deduce that 44% of the motorcycle accidents are crashes that do not involve a motor vehicle, where no No-Fault medical bills whatsoever would be paid. That means only 56% of the motorcycle accidents in 2018 could possibly meet the Catastrophic Max and be reimbursed by the MCCA.

The conclusion is that only 53% (2006 study) to 56% (2018 report) of the time does a motorcyclist potentially obtain No-Fault medical bill payment.

But it gets worse…

Even Fewer Motorcycle Claimants after Change of Law in 2020

A horrible result of the newly enacted PIP Medical choice is that motorcyclists are stuck with coverage in the amount THE CAR OWNER chose for himself! Motorcyclists are at the mercy of what the negligent driver chose for his (the car driver's) own PIP Medical. If they chose $50,000, that is the maximum amount of PIP medical the motorcyclist may receive. The only way a motorcyclist's medical claim can be reimbursed from the MCCA is if the car driver purchased Unlimited PIP Medical. Thus, the current PIP Medical choice law further reduces the chance a motorcyclist would have a medical claim over the $580,000 Catastrophic Max which only then might afford reimbursement by the MCCA.

Why then should every motorcyclist have to pay the MCCA assessment?

Car drivers who choose something other than Unlimited for PIP Medical under the current law, do not have to pay the assessment because they will never have a claim that exceeds the $580,000 maximum amount.

How Was the MCCA Allowed to Require Motorcyclists to Pay a Fee?

The reason motorcycles are required to pay the assessment is because the governing Michigan statute provides that the MCCA charge an assessment to an insurance company on a per 'vehicle' basis. The definition of 'vehicle' in the MCCA law includes motorcycles. So, the MCCA charges an assessment to every insurance company based on the number of cars, trucks, vans, and motorcycles it insures. The insurance company passes this assessment along to their insureds in like matter, for cars, trucks, vans, and motorcycles.

The change in the law in 2020 specifically exempted car, truck, and van drivers from having to pay the MCCA fee (assessment) if they chose $500,000 or less of PIP Medical. No exemption, credit or further reduced fee was afforded to motorcycles.

It seems Michigan legislators change the definition of 'motor vehicle' or 'vehicle' as they wish, and it typically is to the detriment of motorcyclists. As stated above, a motorcyclist does not always get No-Fault benefits because motorcycles are not 'motor vehicles' under the No-Fault Law. But motorcycles are charged an MCCA assessment because a motorcycle is a 'vehicle' under the MCCA statutes.

This is stating a basic concept. There is an **Order of Priorities** that is followed to determine the insurance company responsible to pay No-Fault benefits. It depends on whether the claimant is an occupant of a motor vehicle, a non-occupant, or a motorcyclist.

Pothole Damage Claims

This section has to do with damage to your motorcycle. It does NOT pertain to personal injury cases.

The government entity that controls a particular road may pay for some vehicle damage caused by potholes—at least in theory. There is a system and procedure in place to accomplish this. If the damage is substantial and you have collision coverage on your motorcycle or vehicle's insurance policy, you may make a claim with your own insurance company. You likely will be out your deductible. If the damage is under $1,000 you can make a claim directly to the proper government entity responsible for the road's upkeep. If the damage claim is over $1,000, a lawsuit may be required.

Your first step is to determine which government entity is responsible to maintain the road where the damage occurred. This could be the State of Michigan, the County or the City where the pothole is located.

For the State of Michigan, MDOT should be contacted only if roads have the designation: "I-", "M-" or "US-." The next level down would be the County, typically the County Road Commission and finally the City.   The claim must be made to the proper entity. For example, claims with the State of Michigan/ MDOT- controlled roads include I-75, I-94, I-696, and other major highways starting with "I-_" [Interstate], M-1 (Woodward) M-22, M-24 (Telegraph Road) [Michigan Highway], US-23, US-10, US-131 [US Highway System].

For property damage claims with the State and most counties, you are required to fill out a Damage Claims Form along with evidence proving your claim. I recommend photos of the damage of the motorcycle and the subject pothole, invoices and/or estimates showing the dollar amount and description of the physical damage to your motorcycle.

The Claim Form will tell you what is exactly needed for that specific government entity. For a Damage Claims Form for the State go to: mdotcf.state.mi.us/public/webforms/public/3600.pdf The law requires you to prove that the governmental entity had actual or constructive notice of the defect, which is very difficult.

In my estimation and investigation, virtually all these
property damage claims are denied because acting officials claim they did not have actual or constructive notice of the pothole prior to the incident.

Deepening my belief that most or all claims are denied were two news reports by established investigative reporters who did Freedom of Information Requests—both found that the number of claims made matched the number of claims DENIED!

How do you prove actual notice that anyone knew anything at any given time?

It is virtually impossible for the layperson. Constructive notice occurs when a certain period of time goes by (that period of time is 30 days) when the law will assume the state/county/city knew or should have known that the defect existed. However, even proving constructive notice bears the same difficult burden; thus, CLAIM DENIED.

CONCLUSION

My hope is that this eBook helped educate you on Michigan's motorcycle law and the best insurance coverage that protects you. We pride ourselves on setting the record straight regarding the many misconceptions in this confusing area of the law.

Thank you for reading and riding safely. Please feel free to call me about anything. It would be a privilege to represent you or a loved one.

Ready for more info? We have many more eBooks that cover Michigan's motorcycle law, motrcycle injury compensation and motorcycle accident claims!

The Three Claims after Michigan Motorcycle Accidents

Wrongful Death Cases

Five Secrets to Maximize Your Injury Compensation

Michigan Motorcycle Tips

Five Things You Need to Know After a Michigan Motorcycle Accident

Road Defect and Negligent Construction Cases

These eBooks are FREE to download at our website:

www.MotorcycleLawyerMichigan.com