

# A Legal Handbook For Michigan Cyclists

A Practical Guide For People Who  
Rely on Bicycles as a Form of  
Recreation and Transportation



**MICHIGAN**  
BICYCLE LAW

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[www.michiganbicyclelaw.com](http://www.michiganbicyclelaw.com)

<b>INTRODUCTION</b>	1
<b>THE RULES OF THE ROAD FOR MICHIGAN CYCLISTS</b>	2
Ride Reasonably Close to the Right Curb	2
Riding Two Abreast	3
Lights	4
Hand Signals	4
Brakes	4
Carrying Packages	4
Parking	4
Riding Bicycles on Sidewalks and Crosswalks	5
Riding Double	5
Riding While Attached to a Vehicle	5
Limited Access Highway	5
Parental Supervision	5
Helmets, Alcohol, and Cell Phones	5
Penalties for Violation of the Michigan Vehicle Code	6
Local Ordinances	7
<b>ELECTRIC BICYCLES/E-BIKES</b>	8
E-Bike Defined And The Three Classes Of E-Bikes	8
Use Of Electric Bikes	8
Bicycle And Mixed-Use Trails And Paths	9
Mountain Bike And Hiking Trails	9
Roads And Highways	9
Age Restrictions And Helmet Use	9
Not A Motor Vehicle	10
<b>RULES INTENDED TO PROTECT CYCLISTS</b>	11
Bicycle Passing Law	11
Drivers Training – Mandatory Bicycle Education	11
Distracted Driving Law	12
<b>INJURY AND PROPERTY CLAIMS FOR BICYCLE/AUTOMOBILE COLLISIONS</b>	14
Michigan No-Fault Personal Protection Insurance Benefits	14
Allowable Expenses	14
Wage Loss Benefits	16
Replacement Services	16
Survivor's Loss Benefits	16
Michigan No-Fault Property Protection Insurance Benefits	16
Automobile Liability Claims	18
Uninsured And Underinsured Motorist Claims	19
<b>OTHER TYPES OF INJURY CLAIMS</b>	20
Dangerous Highways, Streets, Sidewalks, And Bike Paths	20
Parking Lots	23
Defective Equipment	24
Promoters Of Races And/Or Organized Rides	24
Landowner Liability	25
Dogs And Other Animals	25
<b>STOLEN AND DAMAGED BICYCLES</b>	25
<b>LIABILITY CLAIMS AGAINST CYCLISTS</b>	26
<b>BICYCLE RACKS</b>	26
<b>BICYCLE SPECIFIC INSURANCE</b>	27
<b>CONCLUSION</b>	28
<b>ABOUT THE AUTHOR</b>	29
<b>ABOUT THE FIRM</b>	30



# INTRODUCTION

The laws that apply to almost anything related to a bicycle are governed by state law.

This includes the rules for riding a bicycle and the rules for driving a motor vehicle when a bicycle is on the road. State law also typically dictates what insurance claims are available when there is an injury or property damage as the result of an incident involving the use of a bicycle. This handbook is intended to be a legal resource for residents and visitors of Michigan who ride bikes.

1



# THE RULES OF THE ROAD FOR MICHIGAN CYCLISTS

Most of the laws that apply to the operation of bicycles on Michigan roads, sidewalks, and pathways are contained in the Michigan Vehicle Code. The Michigan Vehicle Code defines a bicycle as “a device propelled by human power upon which a person may ride, having either 2 or 3 wheels in a tandem or tricycle arrangement, all of which are over 14 inches in diameter.”

**MCL 257.4** A vehicle is defined as “every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks . . .” **MCL 257.79** Accordingly, under Michigan law, a bicycle is not considered a “vehicle.”

Even though Michigan law excludes bicycles from the definition of vehicles, the law makes it clear that cyclists have an absolute right to use public roads. The Michigan Vehicle Code explicitly states that each person riding a bicycle upon a roadway has all the rights and is subject to all the duties applicable to the driver of a motor vehicle. **MCL 257.657** However, when using the roads, a cyclist is also required to follow certain laws intended to ensure that cyclists use reasonable caution and safe cycling practices. These laws include the following provisions:

## RIDE REASONABLY CLOSE TO THE RIGHT CURB

If riding below the posted speed limit, a cyclist is required to ride as close as practicable to the right-hand curb or edge of the road. **MCL 257.660a** However, this statute recognizes five exceptions or situations where a cyclist need not ride as close to the right hand curb or edge of the road as practicable:

- When passing another bicycle or a vehicle proceeding in the same direction.
- When preparing to turn left.
- When conditions make the right-hand edge of the roadway unsafe or reasonably unusable for bicycle users, including, but not limited to:
  - Surface hazards (i.e., ruts in the pavement or potholes);
  - An uneven roadway surface;
  - Drain openings;



- Debris;
  - Parked or moving vehicles or bicycles;
  - Pedestrians;
  - Animals;
  - Other obstacles; or
  - The lane is too narrow to permit a vehicle to safely overtake and pass a bicycle.
- When riding a bicycle in a lane in which traffic is turning right, but the cyclist intends to proceed straight through the intersection; and
  - When riding on a one-way highway or street that has two or more lanes. In this situation, the cyclist may also ride as close to the left curb or edge of the roadway as practicable.

### **RIDING TWO ABREAST**

Cyclists must not ride more than two bicycles abreast. **MCL 257.660b**

## LIGHTS

If riding between one-half hour after sunset and one-half hour before sunrise, a cyclist must use lights. The law requires that a light system for bicycles must, at a minimum, include a white light which is visible from 500 feet to the front and a red reflector on the rear which is visible from all distances 100 feet to 600 feet when directly in front of lawful low beam headlights. A lamp emitting a red light visible from a distance of 500 feet may also be used in addition to a red reflector. **MCL 257.662(1)**

## HAND SIGNALS

Before stopping or turning, a cyclist must first determine that the stop or turn can be safely made and give one of the following hand signals:

- A left turn by extending their left hand and arm horizontally.
- A right turn by extending their left hand and arm upward, or by extending their right hand and arm horizontally.
- A stop or decrease in speed by extending their hand and arm downward. **MCL 257.648**

## BRAKES

A bicycle must be equipped with a brake that enables the operator to make the braked wheels skid on dry, level, clean pavement. **MCL 257.662(2)**

## CARRYING PACKAGES

A cyclist may not carry any package that prevents them from keeping both hands on the handlebars. **MCL 257.661**

## PARKING

A bicycle may be parked on a sidewalk, except in places where it is prohibited by an official traffic control device. However, a bicycle may not be parked on a sidewalk in a manner that impedes the lawful movement of pedestrians or other traffic. Likewise, a bicycle may be parked on a highway or street in any location where parking is allowed for motor vehicles, may park at any angle to the curb or right edge of the highway, and may park abreast of another bicycle. However, a bicycle may not be parked on a highway or street in a manner that obstructs the movement of a legally parked motor vehicle. Local ordinances may also limit the location and manner of bicycle parking. **MCL 257.660d**

## **RIDING BICYCLES ON SIDEWALKS AND CROSSWALKS**

Bicycles may be ridden upon a sidewalk or pedestrian crosswalk, but cyclists must yield the right-of-way to pedestrians and are required to give an audible signal before overtaking and passing a pedestrian. However, official traffic control devices or local ordinances may restrict the use of bicycles on sidewalks in some areas. Additionally, a cyclist lawfully operating a bicycle upon a sidewalk or a pedestrian crosswalk has all of the rights and responsibilities applicable to pedestrians using that sidewalk or crosswalk. **MCL 257.660c**

## **RIDING DOUBLE**

A bicycle may not be used to carry more people than the bicycle is designed and equipped to carry. **MCL 257.658** In other words, riding “double” is prohibited.

## **RIDING WHILE ATTACHED TO A VEHICLE**

A cyclist may not attach themselves or their bicycle to a streetcar or a vehicle upon a roadway. **MCL 257.659**

## **LIMITED ACCESS HIGHWAY**

A cyclist may not ride on a limited access highway. A limited access highway is defined as “every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only, and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.” **MCL 257.26** These highways are commonly referred to as expressways.

## **PARENTAL SUPERVISION**

The parent or guardian of a child shall not authorize or knowingly permit a child to violate any provision of the Michigan Vehicle Code. **MCL 257.656(2)**

## **HELMETS, ALCOHOL, AND CELL PHONES**

With the exception of a requirement that riders and passengers of Class 3 electric bicycles who are under the age of 18 wear a helmet, there is no





law that requires Michigan cyclists to wear a helmet. There is also no law that prohibits riding a bicycle while under the influence of alcohol. However, it is obviously a safe practice to wear a helmet and people should avoid alcohol consumption when riding a bicycle.

There is also not a law specifically prohibiting the use of a cell phone while riding a bicycle. However, use of a cell phone, including texting or talking, is not a safe practice, and could be considered a violation of **MCL 257.61**, which states that a cyclist may not carry a package, bundle, or article that prevents both hands from remaining on the handlebars.

## **PENALTIES FOR VIOLATIONS OF THE MICHIGAN VEHICLE CODE**

In most cases, a violation of the Michigan Vehicle Code is a civil infraction, which is a non-criminal violation of a law and typically results in punishment in the form of a fine. When a motorist is found guilty of a moving violation of the Michigan Vehicle Code, the court is required to

notify the Secretary of State of the offense, and the driver receives what are commonly referred to as “points” on their driving record. These points remain on a person’s record for two years and typically increase insurance rates. If a driver accumulates enough points, the Secretary of State will suspend their driver’s license. However, the Michigan Vehicle Code makes it clear that a bicycle violation of traffic laws shall not result in any points being assigned to the person’s driving record with the Secretary of State. **MCL 257.732(16)(d)**

## **LOCAL ORDINANCES**

As mentioned earlier, most of the laws that apply to cyclists are contained in the Michigan Vehicle Code. However, the Michigan Vehicle Code specifically states that local authorities may also regulate the operation of bicycles. **MCL 257.606(1)(h)** This means local authorities (cities, townships, villages) may adopt ordinances that regulate the use of bicycles in their communities.



# ELECTRIC BICYCLES/E-BIKES

The Michigan Vehicle Code defines electric bicycles (also known as e-bikes) and categorizes them into three classes. The class of an electric bicycle determines where it may be ridden.

## E-BIKE DEFINED AND THE THREE CLASSES OF E-BIKES

The law defines an electric bicycle as “A device upon which an individual may ride that satisfies all of the following:

- (a) The device is equipped with all of the following.
  - (i) A seat or saddle for use by the rider.
  - (ii) Fully operable pedals for human propulsion.
  - (iii) (iii) An electric motor of not greater than 750 watts.”

The statute then goes onto explain the three classes of electric bicycles as follows:

- (1) Class 1 electric bicycle – equipped with an electric motor that provides assistance only when the rider is pedaling and that disengages or ceases to function when the electric bicycle reaches a speed of 20 mph.
- (2) Class 2 electric bicycle – equipped with a motor that propels the bicycle to a speed of no more than 20 mph, whether the rider is pedaling or not, and that disengages or ceases to function when the brakes are applied.
- (3) Class 3 electric bicycle – equipped with an electric motor that provides assistance only when the rider is pedaling and that disengages or ceases to function when the electric bicycle reaches a speed of 28 mph.

**MCL 257.13e**

## USE OF ELECTRIC BIKES

In general, a person operating an e-bike must follow the laws that apply to human powered bicycles. **MCL 257.662a(1)** However, there are also laws specific to e-bikes.

## BICYCLE AND MIXED-USE TRAILS AND PATHS

A Class 1 e-bike may be ridden on a linear trail (a multi-use trail that runs from point to point) that has an asphalt, crushed limestone, or similar surface, or a rail trail. However, the law allows local agencies that have authority over the trail to also regulate, or prohibit, the operation of Class 1 e-bikes. **MCL 257.662a(8)**

A Class 2 or Class 3 e-bike may be ridden on a linear trail that has an asphalt, crushed limestone, or similar surface, or a rail trail only if authorized by the local authority or agency having jurisdiction over the trail. In other words, there is a presumption that it is illegal to ride a Class 2 or Class 3 e-bike on a trail unless expressly allowed by the local authority or entity with jurisdiction over the trail. **MCL 257.662a(9)**

## MOUNTAIN BIKE AND HIKING TRAILS

Mountain bike and hiking trails are referred to as “nonmotorized trails” by the Michigan Vehicle Code. Nonmotorized trails are defined as having “a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials.” Michigan law prohibits the operation of all e-bikes on nonmotorized trails, unless the local entity or agency that has jurisdiction over a nonmotorized trail specifically allows the operation of an e-bike on that trail. **MCL 257.662a(10)**

Michigan’s e-bike laws do not apply to a trail system authorized by the United States Congress. **MCL 257.662a(13)** This means Michigan’s e-bike laws do not apply to the North Country National Scenic Trail.

## ROADS AND HIGHWAYS

When riding an electric bicycle on a roadway, the rider has all the rights and is subject to all of the duties applicable to the driver of a vehicle. In addition, the law requires an individual riding an electric bicycle to follow all the laws that apply to human powered bicycles. The law specifies that e-bikes may be used on bike lanes and the shoulder of a roadway. **MCL 257.662a(6)** Simply put, when an e-bike is ridden on the road, it is treated like a bicycle.

## AGE RESTRICTIONS AND HELMET USE

Children under the age of 14 may not operate a Class 3 e-bike. However, they may ride as a passenger if the e-bike is designed to accommodate passengers.



Riders and passengers of Class 3 e-bikes who are under the age of 18 are required to wear a helmet that meets standards established by the United States Consumer Product Safety Commission or the American Society for Testing and Materials. All other e-bike riders are not required to wear a helmet. **MCL 257.662a(4)(b)**

### **NOT A MOTOR VEHICLE**

Michigan law specifically excludes e-bikes from the definition of “motor vehicles.” **MCL 257.33** This means purchasing auto insurance for an electric bicycle is not required. However, it is recommended that e-bike owners consult with their insurance agent to see if it is covered under their homeowners or renters insurance policy. If not, a rider on the homeowners or renters insurance policy may be required to insure an e-bike.



# RULES INTENDED TO PROTECT CYCLISTS

A number of laws have been enacted with the intent of providing additional protection to cyclists. These laws are summarized below.

## BICYCLE PASSING LAW

In 2018, the Michigan Legislature adopted a law that mandates how motorists must pass bicycles. Michigan was one of the last states in the country to pass this type of law. The law is codified in two statutes. The first instructs motorists how to pass a cyclist riding on the right side of the roadway and states, "The driver of a motor vehicle overtaking a bicycle proceeding in the same direction shall pass at a safe distance of at least 3 feet to the left of that bicycle or, if it is impracticable to pass the bicycle at a distance of 3 feet to the left, at a safe distance to the left of that bicycle at a safe speed." **MCL 257.636(2)** This statute also allows a motorist to pass a bicycle in a no passing zone, provided it is safe to do so.

**MCL 257.636(3)** The second statute is virtually identical, but instructs motorists how to pass a cyclist riding on the left side of the roadway. This statute provides that, "The driver of a vehicle overtaking a bicycle proceeding in the same direction shall, when otherwise permitted by this section, pass at a distance of 3 feet to the right of that bicycle or, if it is impracticable to pass the bicycle at a distance of 3 feet to the right, at a safe distance to the right of that bicycle at a safe speed." **MCL 257.637(3)**

Prior to the state adopting a bicycle passing law, a number of cities adopted ordinances requiring a distance of 5 feet when a motorist passes a bicycle. Other municipalities have a 3 foot safe passing law. None of these ordinances create an exception to the mandatory passing distance when "it is impracticable" to pass with at least the minimum passing distance.

## DRIVERS TRAINING – MANDATORY BICYCLE EDUCATION

In 2018, Michigan also adopted a new requirement for all driver education classes. This law, which took effect on March 29, 2019, mandates that classroom time be spent raising awareness of vulnerable roadway users, including cyclists, and states:

“Classroom instruction shall include not less than 1 hour of information concerning the laws pertaining to bicycles, motorcycles, and other vulnerable roadway users, including pedestrians, and shall emphasize awareness of their operation on the streets, roads, and highways of this state. The laws of this state pertaining to awareness of bicycles, motorcycles, and other vulnerable roadway users, including pedestrians, shall also be incorporated into other subject areas of the curriculum where appropriate.” **MCL 256.657**

## **DISTRACTED DRIVING LAW**

Michigan was one of the last states to adopt a meaningful “distracted driving” law. Until 2023, Michigan’s distracted driving law only made it illegal for those driving a car, van, or truck to, “read, manually type, or send a text message on a wireless 2-way communication device that is located in the person’s hand or in the person’s lap, including a wireless telephone used in cellular telephone service or personal communication service, while operating a motor vehicle that is moving on a highway or street in this state.” In other words, it was legal to read emails, watch videos, or interact with social media apps! In June 2023, Michigan finally adopted a “hands-free” driving law. **MCL 257.602b** Under this law, a person cannot hold or use a cell phone/mobile device while driving a motor vehicle but there are numerous exceptions to the rule that make the law for less effective than the cycling community had hoped. The law specifically allows the use of cell phones and mobile devices under the following circumstances:

1. Use of a mobile electronic device in a voice-operated or hands-free mode if the operator of the motor vehicle does not use the operator’s hands to operate the device, except for either of the following: (a) Using a single button press, tap, or swipe to activate or deactivate a feature or function of the mobile electronic device or to select a telephone number or name. (b) Using a mobile electronic device that is integrated into a motor vehicle and utilizes the user interfaces that are permanently installed into the motor vehicle. **MCL 257.602b(3)(d)**
2. The use maps or navigation features if information is not entered by hand while driving. **MCL 257.602b(3)(c)**

3. Calling or texting a 9-1-1 system or making an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity to report any of the following:
  - (a) A fire, traffic accident, serious road hazard, or medical or hazardous materials emergency.
  - (b) An operator of another motor vehicle driving in a reckless or unsafe manner or who appears to be driving under the influence of alcohol or drugs.
  - (c) A crime being committed.

**MCL 257.602b(3)(b)**

4. Use of a mobile electronic device by a law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle, or similarly engaged paid or volunteer public safety first responder during the performance of that individual's official duties, or a public utility employee or contractor acting within the scope of that individual's employment when responding to a public utility emergency. **MCL 257.602b(3)(a)**
5. The use of a mobile electronic device used for the sole purpose of continuously recording or broadcasting video inside or outside of a motor vehicle. **MCL 257.602b(3)(e)**

Additionally, different rules apply to commercial vehicles and school buses. Drivers of commercial motor vehicles and school buses are allowed to use cell phones or mobile devices except to: (1) initiate or receiving a phone call; (2) send, receive, or read a text message; (3) view, record, or transmit a video; (4) access, read, or post on social networking sites; or (4) reach for a device in a manner that requires them to no longer be seated in the driver's seat or to unclip the seatbelt. **MCL 257.602b(2)**

A commercial motor vehicle is defined as a motor vehicle used in commerce if any of the following apply: (1) it is used to transport 16 or more passengers, including the driver; (2) it has a gross vehicle weight rating or gross vehicle weight of 26,001 pounds or more; (3) it has a gross combination weight rating or gross combination weight of 26,001 pounds or more, inclusive of towed units with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds; (4) it is carrying hazardous material. **MCL 257.7a**



# INJURY AND PROPERTY CLAIMS FOR BICYCLE/AUTOMOBILE COLLISIONS

When a bicycle/motor vehicle collision occurs, the cyclist may be entitled to bring four potential claims. These claims are summarized below.

## MICHIGAN NO-FAULT PERSONAL PROTECTION INSURANCE BENEFITS

The Michigan No-Fault Act provides for the payment of personal protection insurance benefits (commonly referred to as “PIP” benefits) to Michigan residents injured as the result of an incident involving a motor vehicle, regardless of who was at fault. **MCL 500.3105(2)** A bicycle is not considered a “motor vehicle” and for this reason, an injured cyclist will not be entitled to PIP benefits, unless the injury arises from the operation or use of a motor vehicle. It is important to note that actual physical contact between a bicycle and a motor vehicle is not required. If the operation of a motor vehicle was a factor that is more than incidental or fortuitous in causing an injury, the cyclist is entitled to PIP benefits. If a cyclist sustains an injury as a result of a collision with another cyclist, a road defect, or simply losing control of their bicycle, the cyclist is not entitled to recover PIP benefits under the Michigan No-Fault Act.

Since a large percentage of cycling injuries, and particularly the most serious injuries, are caused by motor vehicle/bicycle collisions, it is important to understand some basic concepts contained in the Michigan No-Fault Act.

The first important concept that should be understood about PIP benefits is that they are payable without regard to fault. In other words, it does not matter if the motorist or cyclist was at-fault for a collision. If a Michigan resident who is riding a bicycle is involved in an incident involving a motor vehicle that results in an injury, they are entitled to receive PIP benefits.

The second important thing to know about PIP benefits is which insurance company is obligated to pay the benefits. For all incidents where a cyclist is injured as the result of an incident involving motor vehicle that occurs on or after June 11, 2019, an injured cyclist will first look to any insurance policy in

which they are named as an insured. If they are not named as an insured on a policy they will receive PIP benefits from a policy issued to their spouse or a relative with whom they reside. If the cyclist is not insured under any of these auto no-fault policies, they will be assigned an insurer through the Assigned Claims Plan. **MCL 500.3114(1)** and **MCL 500.3115** This is a government office that has been established as the last resort for residents who are auto collision victims to receive PIP benefits.

Finally, it is important to understand what PIP benefits are available. There are four basic types of PIP benefits available under the Michigan No-Fault Act:

### **ALLOWABLE EXPENSES**

An injured person is entitled to recover “allowable expenses” consisting of “reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person’s care, recovery, or rehabilitation.” **MCL 500.3107(1)(a)** These benefits include medical expenses, in-home attendant care or nursing services, handicap-accessible accommodations, room and board expenses, rehabilitation expenses, special or handicap-accessible transportation, mileage to and from healthcare appointments, and guardian expenses.

A cyclist who receives auto no-fault benefits from their insurer, a spouse’s insurer, or from the insurer of a resident relative will receive those benefits without any type of cap on allowable expenses until July 2, 2020.

Beginning on July 2, 2020, the law requires insurers to sell policies with an option to cap or limit allowable expenses to \$250,000, \$500,000, or no limit/cap. Additionally, certain people may qualify for a \$50,000 limit on allowable expenses and others may qualify and choose to opt-out of all no-fault coverage. Any cyclist who chooses a policy which limits their no-fault coverage will be subject to the allowable expense or no-fault limitations selected. **MCL 500.3107c** and **MCL 500.3107d**

Beginning June 11, 2019, in almost all cases, cyclists who receive their no-fault benefits through the Assigned Claims Plan are limited to \$250,000 in allowable expense benefits. **MCL 500.3172(7)**

## **WAGE LOSS BENEFITS**

When a Michigan resident is injured in an incident involving an automobile and cannot work as a result of their injuries, they are entitled to receive wage loss benefits, which are calculated at a rate of 85% of the injured person's gross pay, for up to three years. **MCL 500.3107(1)(b)** Additionally, under the statute, work loss benefits cannot exceed a monthly maximum, which is adjusted in October of each year to keep pace with the cost of living.

## **REPLACEMENT SERVICES**

An injured person may receive benefits as a result of having other people perform domestic-type services that the injured person would have performed, if not for their injuries. However, reimbursement for these services cannot exceed \$20 per day, and these benefits are only available for up to 3 years following the incident. **MCL 500.3107(1)(c)** Typical examples of replacement services include cleaning, laundry, cutting grass, and shoveling snow.

## **SURVIVOR'S LOSS BENEFITS**

When an incident involving a motor vehicle results in death, dependents of the decedent are entitled to recover survivor's loss benefits **MCL 500.3108** and funeral expenses. **MCL 500.3107(1)(a)** Survivor's loss benefits are payable for 3 years and are comprised of several components, which include after-tax income, lost fringe benefits, and replacement service expenses. Additionally, survivor's loss benefits are subject to the same statutory monthly maximum applicable to work loss benefits.

## **MICHIGAN NO-FAULT PROPERTY PROTECTION INSURANCE BENEFITS**

Michigan's No-Fault Act also provides for something called "property protection insurance," which is commonly known as "PPI coverage." The law requires that when there is "damage to tangible property arising out of the ownership, operation, maintenance, or use of a motor vehicle, as a motor vehicle," the no-fault insurance carrier is responsible for paying PPI benefits. **MCL 500.3121(1)**

Under the law, an insurance carrier is required to pay reasonable repair costs or replacement costs, less depreciation, whichever is less.



Additionally, if applicable, the insurer is obligated to pay the value of loss of use. **MCL 500.3121(5)**

Vehicles and their contents, including trailers, are excluded from PPI benefit claims. **MCL 500.3123** Accordingly, when a cyclist is hit by a car, damage to their bicycle helmet, clothing, lights, computer, and other equipment is covered and eligible for repair or replacement costs by the appropriate PPI insurer. If a bicycle is damaged when it is being transported in (or on) a motor vehicle, it is specifically excluded from a PPI benefit claim. However, the owner of the bicycle may still be able to make a claim for property damage under their homeowners insurance policy, renters insurance policy, or bicycle specific insurance policy.

Like no-fault PIP benefits, PPI benefits are available regardless of who was at-fault for the collision. Additionally, the law does not require physical contact between the bicycle (or bicyclist) and the motor vehicle. Rather, the law only requires that the operation, maintenance, or use of a motor vehicle be a factor that contributed to the collision.



PPI benefits are owed by the automobile insurance company for the owner of the vehicle involved in the collision. If the owner does not have insurance, the insurance carrier for the driver of the vehicle is obligated to pay PPI benefits. If the owner and driver of the vehicle involved in the collision are not insured, there will be no automobile insurance company responsible for paying PPI benefits. However, insurance coverage for property damage may be available from other sources, such as homeowners, renters, or bicycle-specific insurance policies.

## **AUTOMOBILE LIABILITY CLAIMS**

In addition to having the right to Michigan no-fault PIP and PPI benefits, a cyclist who is injured as a result of an incident involving a motor vehicle may also be entitled to bring a liability claim against the driver at-fault for the injury. The compensation recoverable in liability claims against negligent motorists includes damages for “noneconomic loss” and “excess economic loss.”

In order to successfully pursue a liability claim, an injured cyclist must first prove that the driver of the motor vehicle was at-fault for the incident. The legal word for fault is “negligence,” which simply means that the motorist failed to act as a reasonably careful person would act under the same or similar circumstances. Violations of the Michigan Vehicle Code, including speeding, failing to yield, and improper lane usage, are all evidence of negligence. If both the injured cyclist and the motorist were, in some way, negligent in causing the occurrence, the injured party may still recover damages, but the amount of those damages will be reduced by the percentage of the injured party’s fault. This concept is referred to as the “rule of comparative negligence.” If an injured person’s comparative negligence is greater than 50%, they may not receive noneconomic damages.

**MCL 500.3135(2)(b)** Accordingly, if a cyclist fails to follow the laws outlined under “The Rules of the Road for Michigan Cyclists,” they will not necessarily be barred from bringing a liability claim. Rather, a violation of the rules of the road or the Michigan Vehicle Code by cyclists is simply evidence of comparative negligence.

Excess economic damages consist of those past, present, and future out-of-pocket expenses that are not compensable as no-fault benefits.

Noneconomic damages consist of those losses that affect a person’s quality of life, such as pain and suffering, incapacity, disability, loss of function,

diminished social pleasure and enjoyment, scarring and disfigurement, and emotional distress. However, to recover noneconomic damages, it is not enough to prove that a motorist's negligence caused a cyclist to be injured. In addition, the cyclist must establish that they sustained a "threshold injury." Under Michigan law, a threshold injury consists of one or more of the following: (1) serious impairment of body function; (2) permanent serious disfigurement; or (3) death. **MCL 500.3135(1)**

Serious impairment of body function is defined as an objectively manifested impairment of an important body function that affects the injured person's general ability to lead their normal life. **MCL 500.3135(5)** Whether an injury constitutes serious impairment of body function or permanent serious disfigurement is dependent upon the facts and circumstances of each individual case.

## **UNINSURED AND UNDERINSURED MOTORIST CLAIMS**

Uninsured motorist and underinsured motorist coverages are optional insurance coverages that may be purchased as part of an automobile insurance policy. It is highly recommended that cyclists purchase these important insurance coverages.

Michigan law requires all vehicles operated on roads and highways to be insured. Yet, statistics indicate that as many as 20% of Michigan drivers are uninsured. If an uninsured driver causes a collision resulting in an injury, uninsured motorist coverage allows the injured person to assert a claim against their auto insurance company, who will then stand in the shoes of the uninsured driver. This allows the injured person to recover noneconomic damages and excess economic damages up to the amount of uninsured motorist coverage in the same manner they would have if the at-fault driver had been insured.

Underinsured motorist coverage is similar to uninsured motorist coverage. Underinsured motorist coverage allows a person injured in a collision to bring a claim against their own insurance company for all damages above and beyond those covered by the negligent driver's insurance coverage, up to the amount of underinsured motorist coverage purchased.



## OTHER TYPES OF INJURY CLAIMS

In addition to an automobile liability claim, a cyclist who is injured due to the negligence of others may be entitled to bring other types of liability claims, which are discussed below.

### **DANGEROUS HIGHWAYS, STREETS, SIDEWALKS, AND BIKE PATHS**

As a general rule, when a person is injured due to the negligent, wrongful, or unlawful conduct of a government entity or one of its employees, the law prevents a lawsuit which attempts to hold the government entity accountable for the injury. This concept is typically known as “sovereign immunity” or “governmental immunity” and is contained in the Government Tort Liability Act. **MCL 691.1401** However, there are a few narrow exceptions to this law. One of those exceptions involves poorly maintained roadways. The law requires government agencies that have jurisdiction

over a highway or roadway to maintain the highway or roadway in reasonable repair, so that it is “reasonably safe and convenient for public travel.” **MCL 694.1402** and **MCL 224.21**

Accordingly, bicyclists (as well as motorists and pedestrians) may bring a claim or file a lawsuit if they are injured due to the government agency’s failure to repair and maintain a roadway. However, the law limits the state and county’s duties to maintain the highway to “the improved portion of the highway designed for vehicular travel and does not include sidewalks, trail ways, crosswalks, or any other installation outside of the approved portion of the highway designed for vehicular travel.” In other words, a cyclist may be entitled to compensation from a county or the state for its failure to maintain the surface of a roadway if they are riding in a lane that is also available for motor vehicle travel. However, if the same cyclist is traveling on a bike lane or shoulder adjoining a highway which is not in reasonable repair, the law does not allow the cyclist to be



compensated by the state or a county government. Additionally, the Government Tort Liability Act does not impose a duty on the state and county road commissions for a defective or dangerous design, negligence due to the posting of signs, or negligent maintenance of traffic control devices. Rather, liability only extends to a failure to maintain the roadway surface designed for vehicular travel.

In order to succeed against a governmental agency for injuries or damages caused by defective highways, it is also necessary to establish that the governmental agency knew, or in the exercise of reasonable diligence should have known, of the existence of the defect and had reasonable time to repair the defect before the injury took place.

**MCL 691.1403**

Municipalities have a duty to maintain a sidewalk installed adjacent to a municipal, county, or state highway in reasonable repair. However, in order to successfully maintain a cause of action against a municipality for its failure to maintain a sidewalk, it is necessary to establish that the municipality knew of the defect in the sidewalk, or in the exercise of reasonable diligence should have known about the existence of the defect in the sidewalk, at least 30 days before the incident or injury occurred. Further, the defect must be "(1) a vertical discontinuity defect of 2 inches or more in the sidewalk and/or (2) a dangerous condition in the sidewalk itself of a particular character other than solely a vertical discontinuity."

**MCL 691.1402a**

To preserve this type of claim, an injured person must provide "notice" in a manner that complies with applicable statutes. These notice requirements can be complicated and if not done correctly, can result in an individual being barred from bringing an otherwise meritorious claim. Generally, notice for claims against the State of Michigan and municipalities must include the exact location and nature of the defect, the injury sustained, and the names of any witnesses to the occurrence, within 120 days from the date the injury occurred. **MCL 691.1404** Claims for damages due to the failure of a county or county road commission to maintain roads, bridges, or culverts in reasonable repair require an appropriate notice within 60 days of the occurrence to the county clerk and chairperson of the county road commissioners and must "set forth substantially the time and





place where the injury took place.” **MCL 224.21** Different deadlines may apply to the notice provisions and time limitations for minors and individuals deemed to have a disability which causes them to be incapable of giving notice.

### **PARKING LOTS**

When a cyclist is injured as the result of a defective or dangerous condition that is part of a private parking lot, they may have a claim against the possessor of the property/parking lot. This type of claim is typically referred to as a negligence or premises liability claim. In order to successfully pursue a premises liability claim, an injured person must establish that: (1) the property owner owed the injured person a legal duty; (2) the property owner was negligent and/or breached their duty; (3) the injury caused the injured person to suffer damages; and (4) the property owner’s negligence was a proximate cause of the person’s injuries.

Michigan courts have adopted a legal doctrine typically known as the “open and obvious defense,” which plays a major role in most premises liability claims. Essentially, this legal doctrine states that if a dangerous or defective condition is so open and obvious that a reasonable person would take care to avoid it, the possessor of the property does not owe a duty of reasonable care to the injured party, and the injured party is barred from bringing a claim for their injuries.

## **DEFECTIVE EQUIPMENT**

If an injury is caused by a defective bicycle or product, the injured person may be entitled to recover under a legal theory referred to as “product liability.” Typically, product liability claims allege that a product was negligently manufactured or designed. Product liability claims may also be brought under a theory that the manufacturer or seller of a product breached an express or implied warranty. An express warranty is a representation or statement made by a manufacturer or seller that the product has certain characteristics or will meet certain standards. An implied warranty is a duty imposed by law which requires the manufacturer’s product to be reasonably fit for the purposes and uses for which it is intended, or uses which are reasonably foreseeable, by the manufacturer.

## **PROMOTERS OF RACES AND/OR ORGANIZED RIDES**

Claims alleging an injury due to the negligence or wrongful conduct of the promoter of a race or organized ride are extremely difficult under Michigan law. Almost all races and organized rides require a signed release as a condition of participation in the event. Michigan courts have consistently held that a release is enforceable and a complete defense for damages caused by ordinary negligence. However, courts have held that claims may be pursued, even when a release is signed, if the injury is caused by gross negligence or willful and wanton misconduct, or when the injury arises from an unreasonably dangerous condition that is not associated with a risk inherent in the sport.

Pursuant to **MCL 700.5109**, a parent or guardian of a minor may only release a nongovernmental, nonprofit organization from liability for personal injury sustained by the minor during a specific recreational activity.

Additionally, a participant in a race or organized ride may be injured due to the wrongful conduct of another racer or participant. However, Michigan courts recognize that participants in these types of activities assume certain risks when they agree to participate in sports or recreational activities. Accordingly, in order to succeed in a claim against another participant in a sporting event, it must be established that the wrongdoer acted recklessly. Mere negligence on the part of the wrongdoer is not enough to establish a successful claim.

### **LANDOWNER LIABILITY**

Landowners and those who control property (e.g., renters) can be held liable for injuries caused by their negligence or wrongful conduct. However, the Natural Resources and Environmental Protection Act **MCL 324.73301** bars a claim for injuries to a person who is on the land of another without paying the owner, tenant, or lessee of the land valuable consideration for the purpose of any outdoor recreational use or trail use, with or without permission, unless the injuries were caused by gross negligence or willful or wanton misconduct of the owner, tenant, or lessee.

### **DOGS AND OTHER ANIMALS**

If a cyclist is injured as the result of a domestic or farm animal, they have a potential claim against the animal's owner. Dogs are the animals most likely to injure a cyclist. In Michigan, a dog owner is strictly liable for damages caused to a person bitten by their dog. **MCL 287.351** The only exceptions to this rule are if the injured person provoked the dog or was trespassing at the time of the bite. A landlord may also be held liable for injuries caused by a bite inflicted by a tenant's dog, if the landlord is aware of the dog's vicious nature.

## **STOLEN AND DAMAGED BICYCLES**

Earlier in this handbook, property damage claims due to automobile/bicycle collisions were discussed. However, collisions involving automobiles are not the only way that cyclists suffer property damage. For example, it is common for cyclists to forget there is a bicycle on their roof rack before attempting to pull into a garage. Stolen

or damaged bicycles are often covered under a homeowners insurance policy or a renters insurance policy. However, many insurance carriers require bicycles to be covered under an insurance policy rider and/or additional insurance coverage.

## **LIABILITY CLAIMS AGAINST CYCLISTS**

When a cyclist is negligent in the operation of a bicycle and causes an injury or property damage to a motorist, pedestrian, property owner, or another cyclist, they may be liable for the harm caused by their negligence. Typically, homeowners insurance or renters insurance policies provide coverage for claims like these, which are made against cyclists. This coverage also typically includes the cost of an attorney and other expenses associated with the defense of the claim.





## BICYCLE RACKS

The Michigan Vehicle Code prohibits motorists from “obscuring or partially obscuring their license plate.” However, the relevant statute specifically states that the attachment of a bicycle rack or a bicycle on a rack that obscures or partially obscures a license plate is not considered a violation of the law. **MCL 257.225(2)**

It is important to securely mount a bicycle on a bike rack and remove anything that could fall off the bike, including seat bags and water bottles. All motorists are required to prevent cargo from dropping or escaping from a vehicle they operate. **MCL 257.720(1)**

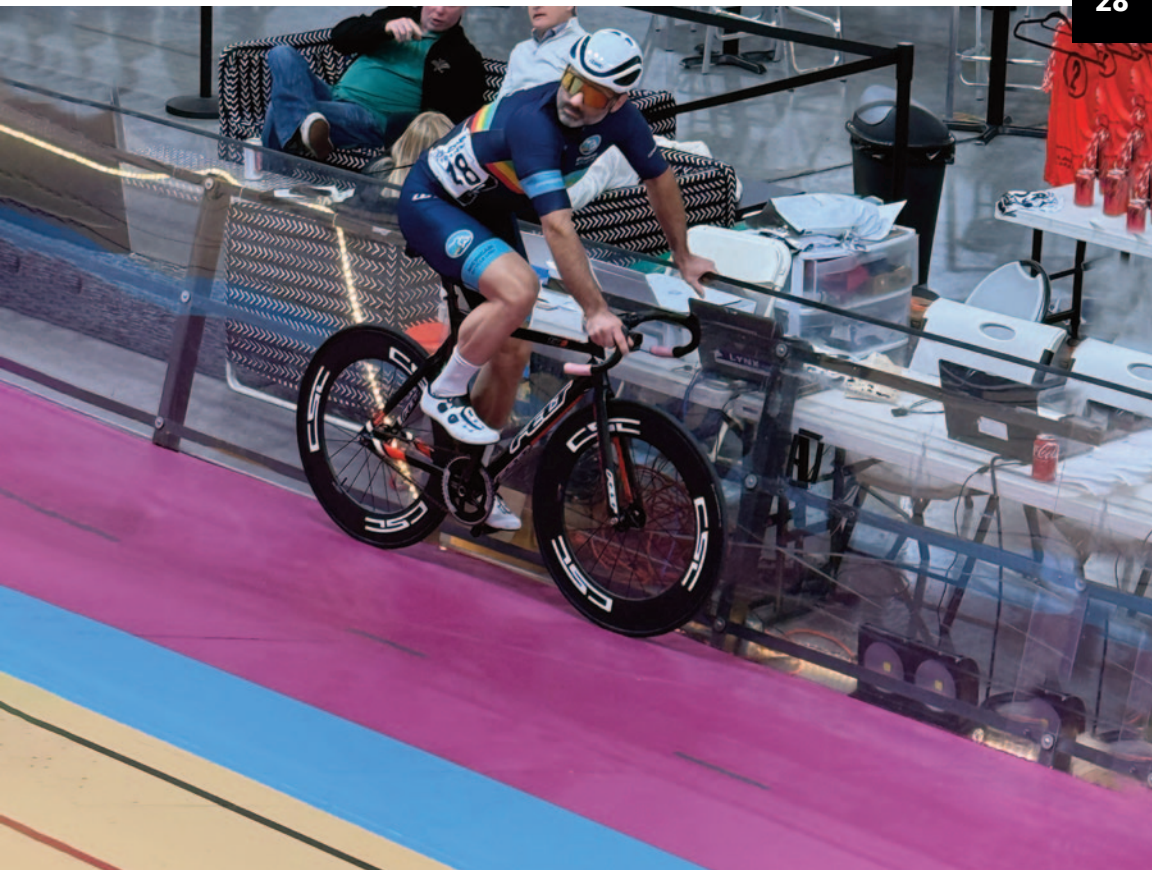
## BICYCLE SPECIFIC INSURANCE

Bicycle specific insurance allows for certain types of insurance coverages for cyclists that may not otherwise be available. For example, it allows cyclists who do not own an automobile to purchase uninsured and underinsured motorist coverage. Other coverages available include coverage for liability, bicycle theft and damage, medical payments, and trip interruption. Bicycle specific insurance can be extremely valuable for some cyclists. However, most of the coverages available through bicycle specific insurance policies may already be available or purchased through other insurance policies, such as homeowners insurance, renters insurance, and automobile insurance policies. For this reason, the value of bicycle specific insurance will be dependent upon each individual cyclist’s unique situation.



## CONCLUSION

There are numerous laws that apply to bicycles and cyclists. These laws and the manner in which they are applied to a given factual scenario can often be complicated and require a thoughtful and thorough legal analysis. If you, a family member, or a friend are in need of legal representation, or simply have a question, please contact the author or one of the other attorneys at the Sinas Dramis Law Firm. Additionally, please visit the law firm's website and blog devoted to bicycling at [www.michiganbicyclelaw.com](http://www.michiganbicyclelaw.com) for updates and developments on laws and legislation which may affect the rights of bicyclists.



## ABOUT THE AUTHOR

**Bryan Waldman** is a partner and the President of the Sinas Dramis Law Firm. He has been a trial lawyer since 1992, has litigated cases in over 40 jurisdictions, and has been recognized in multiple publications, including "The Best Lawyers in America," for his work in the field of personal injury litigation. In 2003-2004, Bryan served as President of the Michigan Trial Lawyers Association, and in 2008-2009, he served as Chair of the Michigan Civil Service Commission.

Bryan has been an avid cyclist for over 30 years and is a tireless advocate for all who ride a bicycle in the State of Michigan. He was named 2016 Michigan Cyclist of the Year by the PEAC (Programs to Educate All Cyclists) and in 2013, he received the Bicycle Advocate of the Year Award from the League of Michigan Bicyclists.



Bryan is a lifetime member of the League of Michigan Bicyclists and has served on the organization's board and as advocacy director. He has competed in road races, criteriums, cyclocross races, and mountain bike races. He also enjoys bicycle tours and uses his bike to shop and run errands. However, his most cherished moments on a bicycle are those spent with family and friends.

## ABOUT THE FIRM

### **SINAS, DRAMIS, LARKIN, GRAVES & WALDMAN, P.C.**

The Sinas Dramis Law Firm was established in 1951 and is best known for representing people in matters dealing with serious personal injury and wrongful death throughout the entire State of Michigan. Eight of the firm's attorneys are included in the publication "The Best Lawyers in America" in the field of plaintiff's personal injury litigation. Eleven of the law firm's attorneys have been recognized as Michigan Super Lawyers, and one has been selected as a Rising Star by the same publication.

The Sinas Dramis Law Firm frequently represents cyclists and runners and has a deep commitment to the safety of outdoor athletes. The firm sponsors multiple cycling clubs and regularly sponsors cycling and running events, including races and organized rides. Additionally, each year the firm co-sponsors events known as "Lids for Kids," which give bicycle helmets to children and ensure that they are properly fitted. Since 2003, the events have resulted in over 13,000 children being given and fitted with bicycle helmets.

Members of the firm frequently participate in bicycle races, bicycle tours, triathlons, duathlons, and distance running events.



**The Sinas Dramis Law Firm** is committed to helping people know the law and understand their rights. The firm has created the following websites to provide information regarding specific areas of Michigan law:

**[www.sinasdramis.com](http://www.sinasdramis.com)** – Michigan Personal Injury Law

**[www.autonofaultlaw.com](http://www.autonofaultlaw.com)** – Michigan Automobile Law

**[www.michiganbicyclelaw.com](http://www.michiganbicyclelaw.com)** – Michigan Bicycle Law









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