

If You Have An Auto Accident



This pamphlet, which is based on New York law, is intended to inform, not to advise. No one should attempt to interpret or apply any law without the aid of an attorney. Produced by the New York State Bar Association Committee on Public Relations in cooperation with the Torts, Insurance & Compensation Law Section.



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What should you do if you're involved in an automobile accident in New York State?

Stop

Cooperate with authorities, including police and rescue personnel. In New York State, if you are involved in a vehicle accident causing injury to person or property, you are required to stop and give your name, address, and show your driver's license and insurance identification card to the person who is injured or whose property is damaged, or to a police officer. If such information isn't available at the scene of the accident, it must be given to the nearest police station or judicial officer as soon as possible.

Injured persons receive first consideration

If possible, have someone call a doctor or an ambulance at once. If you don't know the local area, a telephone operator will locate help for you. Remember, in getting aid, it is necessary to fix your location as precisely as possible, so that help can reach you without delay.

Meanwhile, make the injured party as comfortable as possible. You normally should not move an injured person. Keep the person warm with blankets or coats. If there is any bleeding, stop it by applying direct pressure with a clean cloth. Do not give an unconscious person anything by mouth.

Protect the scene

Make every effort to prevent further accidents. You may be liable for damages to approaching vehicles unless they are properly warned. Vehicles should not be left in a position of danger on a highway if they can be moved, nor should passengers remain in such

a vehicle. If the highway is obstructed at night, have someone with a flashlight warn approaching motorists. Set out flares and reflectors if they are available.

Call traffic officials

Request the presence of a police officer or highway official and give briefly the basic facts. Request a copy of any report made by the police. The official report may help you later if any liability claim is made.

Trade facts with other drivers

Obtain the names and addresses of all other drivers involved, along with the names and addresses of other passengers. Also note the ownership, license number, year and make of all cars involved in the accident.

If possible, obtain the names of the insurance companies and the policy numbers covering the other autos in the accident. By law, an insurance policy information card must be carried in every vehicle licensed in New York State. These cards can be your source for such information.

Get the names and addresses of as many witnesses as possible

Witnesses will be a tremendous help to you in any subsequent court action, if there is any question of liability involved. Get the names, addresses and telephone numbers of as many witnesses as possible. If they refuse to identify themselves, jot down the license numbers of their automobiles.

Do not discuss the accident with the witnesses. Do not give their names to anyone but the police, your attorney or your insurance company. Remember to get the name and badge number of any police officials who appear on the scene.

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Write down the details of the accident

Make a note of the details of the accident, including date and time, road conditions, weather conditions and speed of all other cars involved. It also is a good idea to draw a diagram of the accident showing the position and direction of the cars just prior to and after the accident.

Report the accident to the commissioner of motor vehicles and to your insurance company

The law requires that the operator of a vehicle involved in an accident in New York State in which a person is killed or injured or one in which damage to the property of any person, including himself, exceeds \$1,000 must file a written report with the Commissioner of Motor Vehicles within 10 days. If the operator is unable to make such a report, another participant must make it within the prescribed period. Remember to keep copies of all correspondence and reports for your records. The law further provides that if an operator or participant is unable to make this report, the owner of the vehicle must do so within 10 days after learning of the accident. Failure to comply with the law is a misdemeanor and could be grounds for suspension or revocation of the operator's driving license, or certificate of registration for the vehicle. Your local police station or insurance agent will help prepare the necessary forms.

Failure to comply with the law is a misdemeanor.

Remember to call your insurance company representative immediately after the accident. Don't forget to send written notice to your

insurance company as soon as possible. The notice should include the time, place and circumstances of the accident. If you fail to notify your insurance company of the accident in writing within a reasonable time, this could be grounds for the company's denying any obligation to protect your interests in the event a claim is made against you.

Also, make sure your report contains the names of all injured persons (including passengers, pedestrians, and drivers and the names of all available witnesses.

Claims made against you

Refer all persons making claims against you to your insurance company. Make no payments, or promises to pay, to any claimant. Immediately send your insurance company all legal papers served on you. If the coverage you have purchased is not adequate to cover the claims made against you, consult your lawyer at once. Remember, you may have insurance coverage under more than one policy.

Claims made by you

If you are injured, see a doctor as soon as possible. Potentially serious and costly injuries may seem trivial at first.

Where accidents occur within New York State, automobile insurance policies include provisions for payments to operators and passengers of automobiles, and to pedestrians for medical expenses, lost wages, and other expenses, regardless of fault.

If you have any questions about your right to sue for either personal injury or property damage, consult your attorney.

No-Fault insurance benefits in New York State

Under New York State's compulsory no-fault automobile insurance law, persons injured in a motor vehicle accident are eligible to receive up to \$50,000 in benefits provided they were not intoxicated, drugged or engaged in other specified criminal or anti-social behavior.

All No-Fault claims must be filed within 30 days of the accident. Medical claims must be submitted within 45 days of treatment. Claims for loss of earnings must be submitted within 45 days of the accident.

The no-fault benefits include:

-All necessary medical and rehabilitation expenses.

-Lost earnings up to \$2,000 a month for up to three years from the date of the accident. There is a 20% reduction of actual lost earnings.

-Up to \$25 per day is available for one year after the accident for other reasonable and necessary expenses incurred because of the accident, such as the cost of hiring a housekeeper to perform the household services usually performed by the injured person.

These benefits are payable regardless of who was to blame for the accident.

Some policies may contain additional benefits, but each policy must be examined to determine what its benefits are.

The right to sue

Under no-fault, you, as an accident victim, retain the right to sue a negligent operator and

owner of a covered vehicle for personal injury losses in certain cases:

-For your medical expenses and other economic losses when they exceed \$50,000.

-For "pain and suffering" if you suffer an injury which results in significant disfigurement, a fracture, or other kinds of significant injury as defined under the no-fault law.

-For injury resulting in death.

-When the injured person or the person at fault does not have insurance complying with the New York State minimum provisions.

New York State requires a minimum of \$25,000/\$50,000 personal liability coverage, \$10,000 in property damage and \$50,000 in the event of a wrongful death; in addition to the no-fault coverage.

If an owner or operator is uninsured, you should consult your attorney immediately.

Property damage

Claims for damages to your vehicle still will be covered by your own collision or comprehensive insurance policy, if you have one. As in the past, if another motorist is at fault in an accident, you retain the right to sue the person for property damage. New York requires a minimum \$10,000 property damage coverage.

If the owner or operator is uninsured, you should consult your attorney immediately.