

**FREE
PUBLICATION**

THE LOUISIANA
**ACCIDENTS
HAPPEN**
GLOVEBOX HANDBOOK

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This booklet provides basic information to introduce you to the many complex details that drivers confront when they have been in an automobile accident.

Please do not consider this as legal advice. Each accident is different, depending upon the facts and details involved. This booklet is intended to give you general information so you can ask the right questions when you consult an attorney or talk to your insurance agent.

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ACCIDENT SCENE CHECKLIST

- Call 911 and seek medical attention immediately if anyone is injured.
- Do not move your vehicle until authorities arrive.
- Take pictures of the scene and vehicles before anything is moved.
- Take pictures of visible injuries.
- Do not leave the scene of the accident unless immediate medical attention is needed.
- Write down or record names and phone numbers of witnesses and persons involved in the accident.
- Cooperate with the investigating officers and be sure to report any injuries to the officer and emergency medical responders.

WHAT TO DO FIRST

The **STEPS** below will assist you in understanding the actions you should take to regain your health and recover your financial losses following an automobile accident.

Your first concern should be taking care of yourself and any family members or friends who may have been in your vehicle at the time of the accident. It is absolutely essential that you make sure any injuries are diagnosed and treated by medical personnel.

The following guidelines are recommended to properly document your injuries for an insurance claim.

- Seek medical attention within 72 hours of the accident, if possible.
- Advise the doctor of every pain or discomfort that has occurred, including any bodily condition that has changed since the accident.
- Notify your doctor of any loss of consciousness, dizziness, vertigo or inability to think clearly, as these may be signs of a "closed-head" injury.
- Report any numbness or tingling in arms, hands, legs or feet.

Seeking medical attention immediately after your accident is extremely important for several reasons:

- Medical documents provide evidence of injury and establish that the accident caused the injury.
- Prompt treatment enables the doctor to determine the severity of your injury and recommend additional testing and/or screening by a medical specialist.
- If a driver has a second accident soon after a first accident, medical documents can be used to determine when injuries occurred.
- Prompt treatment supports your claim for damages. Insurance companies, judges, and juries may question your claim of injury if you delay treatment.
- Delaying treatment can result in insurance companies, judges, and juries reducing payment for money damages to which you may be entitled.
- Failure to seek medical treatment can jeopardize payment of any money for your injuries and lost wages.

Keep the following details in mind and act on them as soon as you are physically able:

- Contact your insurance company and notify them of the accident. Advise them of damage to your vehicle and its location in order to avoid expensive storage fees. **Do not give a recorded statement at this time, as you may have an injury claim covered by your own auto insurance policy.**
- Contact the other driver's insurance company and notify them of the accident. **Do not give a recorded statement at this time.**
- **Avoid giving any recorded statements regarding fault or bodily injuries until you have consulted a personal injury attorney.**

Always be cautious about sharing information.

If you have been in an auto accident, you may be inclined to discuss the details with friends or with people whom you may not know; you should refrain from doing so. You may feel that talking about the accident will help you deal with the trauma you have experienced. Your case, however, will not be helped by discussing it with friends or acquaintances.

In fact, you could harm your case if you misspeak about the details of the accident and/or your injury.

The simple "first steps" below are critical to ensure that you do not accidentally provide information that could harm your case:

- **Do not** give any recorded statements to insurance companies, including your own, until you have consulted an attorney.
- **Do not** discuss your injuries or admit any fault for the accident to anyone – including your own insurance company.
- **Do not** discuss any injuries with insurance adjusters immediately following the accident. Some injuries may not make themselves known for days or weeks after an accident.
- **Do not** sign any document from any insurance company without having it reviewed by an attorney.

WARNING

NEVER LET AN INSURANCE ADJUSTER PRESSURE YOU INTO SETTling YOUR CASE. Some adjusters have been known to employ this tactic to close your file quickly. If you settle your case before the extent of your injuries are fully diagnosed and treated, you could end up paying for your medical costs out-of-pocket. The insurance company **WILL NOT** reopen your file and they **WILL NOT** give you any more money, even if you require expensive treatment or surgeries related to the auto accident.

SOCIAL MEDIA DO'S & DONT'S

Social media and the Internet may be your worst enemy in the case of an accident. Follow these guidelines:

- **Do not** discuss your accident or injuries on the Internet or on your Facebook® page.
- **Do not** post photographs of your vehicle, yourself, or anything related to your accident on Facebook®, Instagram®, or any other social media.
- **Do not** tweet your experience on Twitter®.
- **Do not** accept any new Facebook® friends that you do not personally know.
- **Do** change your privacy settings immediately to prevent others from posting ANY photos of you on the Internet.
- In fact, it is a good idea **not** to email anyone information about your accident. The less information you put in writing to the general public, the better.

It is not in your best interests to engage in public discussion about any details of your accident. Read the COMMENTS sections of any social media post. There are always "trolls" looking for arguments. You do not want to be their victim.

It is important, however, to understand that the at-fault driver's insurance company does not have the responsibility to take care of you. Their primary obligation is to defend and protect **THEIR** policyholder.

VEHICLE DAMAGE & REPAIRS

Once you have determined that your health issues are under control, the damage to your vehicle needs to be addressed. If your vehicle is determined to be a total or a near total loss there are some options you should consider:

Use the following guidelines to make the most cost-efficient decision about your vehicle.

- **IF YOUR VEHICLE IS BRAND NEW AND REPAIRABLE:**

You may be entitled to make a claim for TRAUMATIC DEPRECIATION. This depreciation amount is in addition to the normal depreciation incurred when a new vehicle is driven off the dealer's lot. This claim must be evaluated by your lawyer on a case-by-case basis.

- **IF YOUR VEHICLE IS DAMAGED BEYOND REPAIR:** It is considered a TOTAL LOSS. The insurance company will reimburse you for what is considered fair market value of your vehicle, plus tax, title and license.

- **IF THE COST OF REPAIR TO YOUR VEHICLE IS 75% OR GREATER THAN ITS FAIR-MARKET VALUE:** The insurance company may choose to declare your vehicle a CONSTRUCTIVE LOSS. This means the cost of repairs compared to its overall value does not make economic sense. The insurance company will reimburse you for what is considered fair market value your vehicle, plus tax, title and license.

- **IF YOU DECIDE TO REPAIR YOUR VEHICLE EVEN THOUGH THE REPAIR COSTS ARE 75% OR GREATER THAN THE FAIR MARKET VALUE:** The insurance company may reduce its payment to you by an amount equal to the salvage value of your vehicle.

- **IF YOUR VEHICLE IS DECLARED A CONSTRUCTIVE LOSS:** The insurance company should pay the fair market value of your vehicle, plus tax, title and license.

- **IF YOU DECIDE TO LET THE INSURANCE COMPANY KEEP THE VEHICLE AS A SALVAGE AND ACCEPT PAYMENT FOR A TOTALED VEHICLE:** The insurance company should pay the fair market value of your vehicle, plus tax, title and license.

Your **attorney** can assist you in making the **right choice**.

WHO IS AT FAULT?

Determining who is to blame, or deciding **FAULT**, is sometimes difficult. It is not uncommon to be involved in an accident where it is difficult to determine which driver is legally at fault.

AT FAULT DRIVER: If it is clear that the other driver is at fault and the other driver's insurance company accepts responsibility, you should be provided the following:

- You should be provided a rental vehicle comparable to your vehicle. Driver's age limits may apply to renting a vehicle.
- Please note: If you did not have comprehensive and collision coverage insurance for your vehicle at the time of the accident, the vehicle rental company will require you to purchase this coverage before allowing you to rent a vehicle.
- The at-fault driver's insurance company is also liable for towing and storage fees.

IF FAULT CANNOT BE QUICKLY DECIDED: Call your insurance agent to determine if you have rental coverage.

- If you do have rental coverage, it is important to ask your insurance company if they have special rates deal with a particular rental vehicle company. Check your policies daily limit for rental coverage.
- If you have collision coverage for your vehicle, your insurance company will apply your **deductible** to whatever they pay you for the repairs. This will apply whether or not you are at fault.
- If your insurance company pays for your vehicle damage and the other driver is found at fault at a later date, you will be entitled to reimbursement of your deductible by the insurer of the at-fault driver, as well as rental vehicle expenses for a comparable vehicle.
- If the insurance companies are **arguing over fault**, causing delay in settling your property damage claim, it is recommended, if financially possible, to pay the wrecker service and retrieve your vehicle from storage to take to a repair facility or your house. Accumulation of storage fees at the wrecker yard can create problems resolving your property damage claim. You should advise both insurance companies of the location of your vehicle so an adjuster can prepare a repair estimate.

UNINSURED MOTORIST/PROPERTY DAMAGE COVERAGE

- If you have Uninsured Motorist/Property damage coverage, you can get your vehicle repaired **if you are hit by an uninsured driver**. This only applies if you are not at fault.
- Uninsured Motorist/Property damage coverage **will not pay for repair costs** if you wreck your vehicle and you are at fault.

WAGE LOSS

One concern we all share if we are involved in an accident is our ability to work due to injuries caused by the accident. Our families depend upon us for support, and being off work for an extended period of time can take a serious toll on our families and our jobs.

The good news is that if you are unable to work as a result of an accident, there are conditions under which you may be entitled to lost wages:

- You are entitled to lost wages from the at-fault driver's insurance company if you are unable to work as a result of the accident.
- The insurance company cannot reduce your wage loss by deducting an amount equal to state and federal taxes.
- Unfortunately, if you are under medical care and unable to work, the at-fault driver's insurance company is not obligated to pay your wages until there is a settlement or a judgment at trial. Restitution for wage loss is made when your case is resolved.

RESPONSIBILITY

Assigning responsibility is determined as follows:

- The injured victim (called the Plaintiff) has to prove another motorist(s) is at fault and the plaintiff's damages are a result of the accident.
- The Plaintiff must prove by a "preponderance of the evidence" that the other driver is at fault. In other words, just enough evidence to tip the scale in Plaintiff's favor establishing that fault and injuries are "more likely than not" caused by the other driver's negligence.

This is called the **“BURDEN OF PROOF.”** Once responsibility has been determined, the injured victim is entitled to some or all of the following:

- Medical Expenses (past, present, and future);
- Mental Anguish (past, present, and future);
- Loss of Enjoyment of Life (past, present, and future);
- Loss of Wages (past, present, and future);
- Loss of Earning Capacity (past, present, and future);
- Loss of Consortium (past, present, and future);
- Disability (past, present, and future);
- Disfigurement;
- Property Damage; and
- Travel expenses, Storage fees, and Rental expenses.

LOUISIANA INSURANCE LAWS

As responsible drivers, it is useful to know a little about Louisiana insurance laws. The State is very clear about the kind of insurance coverage it requires of vehicle owners:

A vehicle owner can purchase higher insurance limits than the minimum required; however, all vehicles on Louisiana roadways must have, at a minimum, 15/30/25 liability coverage.

- The first number (\$15,000) represents the most money YOUR insurance company will pay if you injure someone in an auto accident and you are at fault.
- The second number (\$30,000) represents the most money your insurance company will pay if you injure MORE than one person if you have an accident and are at fault.
- The last figure (\$25,000) represents the most money your insurance company will pay someone if you damage or total someone's vehicle and are at fault.

In 1996, the Louisiana legislature passed a law called "No Pay/No Play", that penalizes uninsured motorists. The details of this law include the following:

- If you do not have insurance on your vehicle and you are driving at the time of the accident, the law does not allow you to collect the first \$15,000 from the at-fault driver's insurer for bodily injuries and wage loss, nor can you collect the first \$25,000 for your vehicle damage.
- This does not mean you cannot make a claim for damages if your injuries are severe and you have extensive medical bills. It means that your claim, whatever it may be worth, will be reduced by \$15,000 for bodily injuries and \$25,000 for property damage.
- This law applies to vehicle owners who do not have insurance, as well as anyone "driving" an uninsured vehicle owned by someone else. This law, however, does not apply to any guest passengers in the uninsured vehicle, nor does it apply to the driver if he/she has their own liability insurance policy for a separate vehicle they own.
- Putting it simply, the law is specifically designed to only punish anyone driving a vehicle without the minimum liability insurance required by Louisiana State Law.

According to Louisiana Revised Statute 32:866, the aforementioned limitations of the **“No Pay/No Play”** law do not apply if the driver of the other vehicle is cited for any of the following offenses:

- i. Driving while intoxicated, under either the influence of alcohol (DWI) or drugs (DUI);
- ii. Causing the accident intentionally; insurance companies cover only negligent acts, not intentional acts;
- iii. Fleeing from the scene;
- iv. Committing a felony offense under the law at the time of the accident.

Although all Louisiana drivers are required by law to drive insured vehicles, not everyone does. In some cases, there may be other insurance coverage available if the at-fault driver is uninsured or under-insured.

It is important to understand that insurance coverage can be very complicated. If you have read through your automobile or home insurance policy, you soon realize that there are all sorts of exclusions and exceptions that may apply.

One of the most basic rules of automobile insurance coverage is the insurance attaches to the vehicle.

For example, John Smith owns an insured pick-up truck. He usually drives his truck to work; however, one Friday his truck breaks down and he borrows his friend’s insured truck to drive to work.

On the way, he runs a stop sign and crashes into your vehicle. Even though John Smith is at fault, his friend’s auto insurance policy will be first in line to pay for your bodily injuries and property damages. Should his friend’s auto insurance policy limits be insufficient to pay for all of your bodily injuries and property damages, an additional claim can be brought against John Smith’s auto insurance policy since he was the driver. This is called “stacking insurance coverage.”

Always consult an attorney regarding complex insurance issues.

MEDICAL COSTS

Medical costs are always a major expense. There are coverages that may help with these expenses, even if the at-fault driver has no insurance.

Medical Payments Coverage (called Med Pay) is an option that a vehicle owner may purchase to cover every person in the vehicle if there is an accident with an uninsured driver. Fault does not matter with Med Pay.

Med Pay varies according to the policy purchased by the vehicle owner. The most common increments offered are \$1,000, \$2,500, and \$5,000. These amounts would be available to each injured person in the vehicle. If you are a passenger in a vehicle that does not have Med Pay coverage, you may make a claim under your own auto policy if you have Med Pay coverage.

Med Pay Coverage may also be stacked. Say you incur \$10,000.00 in medical bills. If you are a passenger in a car with \$5,000.00 of Med Pay Coverage and YOUR own auto policy has \$5,000.00 worth of Med Pay, you can stack these coverages to pay the full \$10,000.00 of medical bills.

It should be noted that the medical expenses must be incurred *before* one is entitled to these payments.

Uninsured/Under-insured Motorist Coverage is another option that may provide some measure of security. A vehicle owner may purchase this additional coverage in the event the motorist and any passenger(s) are injured by an uninsured vehicle or an individual operating an uninsured vehicle who does not have his/her own automobile liability policy. The same stacking concept of Med Pay coverage also applies to Uninsured/Under-insured Motorist Coverage.

Uninsured Motorist Coverage will pay for medical bills, lost wages and pain and suffering. In some instances, Pain and Suffering Coverage may not be available if a motorist decides to purchase what is known as "Economic Only" Uninsured/Under-insured Motorist Coverage. To be on the safe side, it is advisable to purchase regular under-insured motorist coverage. This option ensures that if you are involved in an accident with an uninsured vehicle, you will have coverage to pay your medical bills, loss wages and pain and suffering.

Uninsured/Under-insured Motorist Coverage is actually included with any new automobile insurance policy. A driver who prefers NOT to purchase this option must reject the coverage in writing at the time the policy is purchased.

HUNT LAW FIRM

Unfortunately, accidents do happen. Property is often damaged and people can get injured. To make sure that your assets are adequately protected, have regular insurance check-ups with your insurance company.

Despite how careful or skilled of a driver you may be, there is no guarantee that you will not be involved in an automobile accident. According to NHTSA the average number of non-fatal car crashes in the United States in 2016 was a staggering 7,242,000. That's almost seven and one-half million accidents. Whether you are in an inconsequential "fender bender" or a severe collision, you will be affected by minor or major car repair and/or medical treatment expenses. Even minor repairs are surprisingly expensive.

If you have an automobile accident, take steps to take care of your health and your property. Personal injury cases can be incredibly complicated. A competent injury attorney can evaluate your case and guide you through the legal process to increase your chances of receiving a fair settlement.

I hope you find this information helpful.

Kindest regards,

A handwritten signature in black ink, appearing to read "Alvin D. Hunt". The signature is stylized with a large, sweeping initial "A" and a long horizontal stroke extending to the right.

Alvin D. Hunt
Attorney-at-Law

Car Wreck? Call Mr. Hunt!



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