

Answering your legal questions about traffic accidents

What should I do if I'm in an accident?
What happens if I don't have the necessary insurance?

What should you do if you get into an auto accident?

If you're involved in any accident:

1. *Stop immediately.* By law, you can't leave the scene of an accident without identifying yourself and rendering assistance. If the accident involves injury, death or property damage of \$1,000 or more to any one person's property (or \$200 for government property other than vehicle), you must notify police immediately.

2. *Help the injured.* Make careful note of the location and call the nearest police agency. Ask for a doctor or ambulance if needed.

3. *Act promptly, but carefully.* Don't move an injured person unnecessarily. Unskilled handling can turn minor injuries into serious ones. Keep the person warm until skilled help arrives. If there is severe bleeding, try to stop it with direct pressure.

4. *Warn passing traffic.* Have someone alert approaching traffic to prevent further damage. Protect the victims from oncoming traffic. Keep a flashlight and flares in your vehicle for emergency use.

5. *Exchange information.* If you were driving, you must give your name, address, vehicle registration number, and if asked, show your driver's license to any other driver involved in the accident. If you damage an unattended vehicle or other property along the highway, notify the owner or leave your name and address.

6. *Record information.* If police are not called to the scene of an accident, you'll need to complete the "Driver's Report of Accident" form. Every driver involved in such an accident must file this form within 10 days if the accident resulted in the injury or death of any person, or if it appears to result in \$1,000 or more in property damage to any one person's property. If the property belongs to the government, except government vehicles, the report must be filed if the damage appears to be \$200 or more. To complete the "Driver's Report of Accident," you'll need to note the:

- location of the accident;
- time and date of the accident;
- nature and extent of damage and injuries;
- name, address, driver's license, and vehicle registration numbers of any other drivers involved;
- automobile insurance companies of all vehicle owners and drivers involved;

This pamphlet, which is based on Wisconsin law, is issued to inform and not to advise. No person should ever apply or interpret any law without the aid of a trained expert who knows the facts, because the facts may change the application of the law. Last revised: 9/2012

- names and addresses of witnesses, including passengers;
- locations of cars and pedestrians involved and their directions of movement, both before and after collision;
- condition of roadway, type of weather at the time of the accident, and any other pertinent information.

Don't admit fault at this point. The excitement of the moment may cloud your judgment and perceptions.

Should you contest an accident-related traffic citation?

Ultimately, the decision is yours. Some questions to consider are: What are your chances of success if you do contest it? How much will it cost you? Will you lose your driving privileges? A lawyer can help you assess your situation.

If you decide to contest the citation, you're entitled to a trial. If the case is to be resolved in municipal court, a judge will decide the matter. If the case is to be resolved in circuit court, a judge also will resolve it, unless you immediately request a jury and pay the required fee.

If you decide that you don't want to contest the citation, and if someone else's person or property was injured as a result of the accident, you should plead "no contest" rather than "guilty." A no contest plea, unlike a guilty plea, can't be used against you later in a lawsuit.



What if you're involved in an accident and you don't have insurance?

Wisconsin drivers are now required to carry insurance. As of Nov. 1, 2011, that insurance must have minimum liability coverage limits of \$10,000 for property damage, \$25,000 for the injury or death of one person and \$50,000 for the injury or death of more than one person. There are limited exceptions from this requirement that do not apply to most drivers.

Drivers and owners of motor vehicles are now required to show proof of insurance at traffic stops and accident scenes if requested to do so by law enforcement. Not having insurance or not having proof of the insurance with you may lead law enforcement to issue you a citation for violation of these laws.

Being involved in an accident without insurance can also lead to suspension of your driver's license and vehicle license plates. If someone was hurt or killed or damage to another person's property exceeded \$1,000 and the accident report shows you may be at fault, the Wisconsin Department of Transportation (DOT) may contact you.

You will receive notice that your operating privileges and all vehicle registrations will be suspended for one year unless you:

- file proof to show you were adequately covered by motor vehicle liability insurance at the time of the accident; or
- deposit a specified amount of money with the DOT as security to satisfy any possible judgments that result from the accident; or
- submit evidence that you've settled claims with anyone who was hurt or whose property was damaged in the accident.

You can request a hearing to appeal the DMV's decision. The statutes are designed, however, to require a deposit to protect the other persons in the accident if there is any reasonable possibility that a judgment may be entered against you because of the accident.

If your driver's license is suspended for this reason, to get your driver's license back, in addition to posting the security required for your accident, you will need to file an SR-22 insurance certificate (or deposit \$60,000) with the DOT, and keep it on file with the department for three years. Obtaining SR-22 insurance is usually expensive.

Because of the difficulty of winning an appeal after the DMV has made a decision, and because of the expense of obtaining an SR-22, it often is worthwhile to consult with an attorney and obtain his or her assistance in avoiding this type of license suspension if possible. It is important to get your attorney involved early to avoid missing legal deadlines in this process.

Why should you consult an attorney before settling a damage claim?

A lawyer can help you assess whether the offer made by the other party is fair. The fairness depends on the type and seriousness of your injuries, how much you were at fault, and what would happen if the case went to trial.

Another reason you may want to consult a lawyer is to have him or her look over the papers you'll be asked to sign upon settlement. The lawyer can assure you that you aren't signing away any important rights.

If you're hurt in an accident, should you consult an attorney, and when?

Almost always, and as soon after the accident as you can. Your first meeting with a lawyer gives you a chance to ask about the law, the procedures, and the fees. It gives the lawyer a chance to tell you what he or she can do for you. Most lawyers don't charge for the initial conference in a personal injury case. But if you're concerned about cost, be sure to ask whether the first meeting is free before you set an appointment. After the first meeting, you'll be able to make an informed decision on whether to hire a lawyer.

You can get the accident report form from the DMV's website at: <http://www.dot.wisconsin.gov/drivers/drivers/traffic/accident.htm>.

This is one in a series of consumer information pamphlets published by the State Bar of Wisconsin. Bulk print copies and display racks also are available, for a charge, by contacting the State Bar of Wisconsin.

- Arrest
- Bankruptcy
- Buying/Selling Residential Real Estate
- Choosing a Process for Divorce
- Custody and Placement
- Durable Powers of Attorney
- Divorce
- Guardians Ad Litem in Family Court
- Health Care
- Hiring/Working with a Lawyer
- Landlord/Tenant Law
- Marital Property
- Personal Injury
- Probate
- Revocable Living Trusts
- Small Claims Court
- Starting a Business
- Traffic Accidents
- Wills/Estate Planning



**STATE BAR
OF WISCONSIN**

(800) 728-7788 Nationwide
(608) 257-3838 from Madison

P.O. Box 7158, Madison, WI 53707-7158
Email service@wisbar.org
On the Web at www.wisbar.org

© State Bar of Wisconsin