



# HIT BY A CAR

## WHAT TO DO IF YOU ARE

We hope it never happens to you, but getting hit by a car or truck is an unfortunate possibility for bicyclists and pedestrians. In an average year there are about \_\_\_\_ reported collisions involving a motor vehicle and a bicyclist or pedestrian in Vermont. In some years, as many as 8 to 10 fatalities result. The United States Department of Transportation reports about 50,000 accidents nationwide with about 750 fatalities and it is likely that USDOT statistics significantly under report the dimensions of the problem as many minor collisions go unrecorded.

If you are a bicyclist or pedestrian involved in a collision with a motor vehicle, or if you are with someone else who is, it is important that you report the collision to the police and that you get critical information that you may need to protect your rights. We have included a checklist (see other side) that will help you get the critical information you need following a collision. Clip it off and store it in your bike bag or wallet.

### **GETTING MEDICAL ATTENTION**

In a collision between a bicyclist or pedestrian and a motor vehicle, the person almost always gets the worst end of the deal. Just being in a collision with a moving mass of metal weighing several thousand pounds will unleash a massive adrenalin rush regardless of the extent of the injuries. That adrenalin rush can mask injuries that may become apparent well after you have left the scene and gone home; if there is any question of injuries that may require subsequent treatment, you should not hesitate to have an ambulance called or to go to the emergency room.

If you need medical treatment, concerns about paying for the medical treatment should not prevent you from seeking that treatment immediately. If the operator of the motor vehicle was negligent, the operator's motor vehicle insurance will likely cover the cost of medical treatment for an injured bicyclist or pedestrian; if the operator is uninsured or does not have sufficient insurance it is likely that your own automobile insurance policy will provide you with coverage up to your policy limits. Even if there is no coverage for the cost of medical treatment under motor

vehicle insurance policies, your own medical insurance should provide coverage. Keep in mind, that even if you do not have insurance coverage, the cost of medical treatment might be covered by programs managed by health care providers for people who cannot pay for their medical treatment, or through state programs.

### **PROPERTY DAMAGE & POLICE REPORTS**

If you are involved in a collision where the operator of the motor vehicle claims that your negligence caused injury or property damage, many home owners or renters insurance policies will cover your liability and provide for your legal costs. You should discuss coverage with your insurance agent.

In almost all instances, bicyclists are subject to the State of Vermont motor vehicle laws. That means that if a bicyclist is involved in a collision, the bicyclist and the operator of the motor vehicle both have the duty to stop, render any reasonably necessary assistance, and provide name, residence, license number and other related information to any person who is injured and to any law enforcement officer. A failure to do so can be punished by a fine of up to \$2,000.00 and imprisonment for not more than two years. If the bicyclist is involved in an accident in which someone is injured or there is damage to property of \$1,000.00 or more, both the bicyclist and the operator of the motor vehicle are required to file a written report. Typically, a police officer investigating the collision will provide you with report forms. Alternatively, local and state police stations have ample quantities of blank report forms. The written report must be mailed to the Commissioner of the Department of Motor Vehicles within 72 hours after the collision, except in cases where the person required to report is unable to do so because of injury.

### **DRUGGED OR DRUNK DRIVERS**

In the case of intoxicated drivers, both criminal and civil charges may be appropriate. Encourage the investigating police to determine whether drugs or alcohol may be a

factor. Keep in mind that bicycling while intoxicated is ill-advised and illegal. Nearly two-thirds of bicyclists' deaths across the country involve a bicyclist who was intoxicated.

## FILING A CIVIL LAWSUIT

If you are injured as a result of the negligence of the operator of a motor vehicle, a civil claim is an available remedy. Many lawyers are experienced in making personal injury claims, and most will represent you on a contingent fee basis; that is, the lawyer will be paid by taking a share of any settlement or judgment you receive from the motor vehicle operator's insurance company. Although frivolous lawsuits are counterproductive, legitimate lawsuits and complaints against operators of motor vehicles who negligently or intentionally hit and injure bicyclists or pedestrians, not only help deter the particular driver involved, they also help to discourage careless and aggressive driving that endangers bicyclists or pedestrians.

## REPORT ALL COLLISIONS

Even if you are not hurt and even if you do not want to

make a claim, it is important to report collisions. Accurate statistical data is critical to the future of safe bicycling and walking in Vermont. In addition to filing a report with local police, please send a copy to the Vermont Bicycle & Pedestrian Coalition, PO Box 4003, Burlington, VT 05406.

This publication is designed to inform you about your rights and responsibilities if you are involved in a crash. If considering this information makes you nervous about safety on Vermont's roadways, do keep in mind that Vermont is still statistically one of the safest states in the country for walking and bicycling. You can help to increase your safety by walking and riding predictably, following traffic laws, wearing bright colors and a properly-fitted bicycle helmet, and using lights at night.

*Thanks to Green Mountain Bicycle Club members David Rath, Esq. of Kohn & Rath in Hinesburg, VT; Robert McKearin, Esq. of Dinse, Knapp & McAndrew in Burlington; and Sam Osborne for adapting materials from Transportation Alternatives (NYC) and from the Jan/Feb issue of Maine Cyclist to Vermont laws. With Ian Carleton, Esq, Hoff Curtis in Burlington, they volunteer as the legal resource group for the Vermont Bicycle & Pedestrian Coalition.*

## IMMEDIATELY AFTER THE CRASH

*Just in case, we recommend that you stow this publication in a resealable plastic bag in your wallet or seatbag with your ID and a small pencil.*

1.  Call 911 or local emergency number. If you are in a rural area, see if you can borrow a neighbor's phone.

2.  Stay at the scene until police arrive and **insist** that  motorists/others involved do likewise.

3.  Gather information about the driver:

Motorist's license plate # \_\_\_\_\_ State \_\_\_\_\_

Motorist's name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Tel # \_\_\_\_\_

Motorist's insurance co. \_\_\_\_\_

Policy # \_\_\_\_\_

Physical description of driver:

age \_\_\_ hair color \_\_\_\_\_ height \_\_\_\_\_ weight \_\_\_\_\_

4.  Gather information about witnesses:

Name \_\_\_\_\_, tel # \_\_\_\_\_

Name \_\_\_\_\_, tel # \_\_\_\_\_

Name \_\_\_\_\_, tel # \_\_\_\_\_

5.  Gather information about the incident:

Location of crash \_\_\_\_\_

Date \_\_\_\_\_ Estimated bicycle speed (mph) \_\_\_\_\_

Time of day \_\_\_\_\_

Weather \_\_\_\_\_

Other circumstances \_\_\_\_\_

6. Talk with the responding police officer. As them to  prepare an accident report.

Police officer's name \_\_\_\_\_

Badge # \_\_\_\_\_

7.  Be careful about what you say lest you inadvertently compromise your position. For example, do not make statements about the road design being dangerous, or assume blame if you were in the right.

## Vermont Bicycle & Pedestrian Coalition

POST OFFICE BOX 4003  
BURLINGTON VT 05406

[www.vtbikeped.org](http://www.vtbikeped.org)

