

WHAT YOU NEED TO KNOW ABOUT MOTORCYCLE INSURANCE

Jeffrey D. Boyd, Attorney at Law

7792 Olentangy River Road, Suite K, Columbus, Ohio 43235

614.885.4980

614.885.4877 (fax)

jeffboyd@rrohio.com

“I HAVE INSURANCE”

The fact that you have “some” insurance doesn’t really mean a thing. A lot of people don’t understand what insurance coverage they have, let alone what insurance coverage they should have, until it’s too late. Many insurance agents are unfamiliar with the special needs of bike owners, and some are too interested in getting your business by “saving you money” than by selling you a good policy.

Most people feel pretty comfortable with their insurance. That is because most people have never had a significant claim. Your agent may be your friend – but your agent has nothing to do with your claim should you have a wreck.

Insurance companies are split into two personalities: the “money in” part (your agent) and the “money out” part (the claims adjusting group). If you have anything other than a very minor claim, you will quickly find out that the “money in” door is a lot bigger and a lot friendlier than the “money out” door. The minute you have a substantial claim, most insurance companies treat you with all the respect they would treat an “outside” person who is making a claim: as a stranger, not as a trusted customer.

What you don’t know will hurt you. I write this from the perspective of a lawyer that has represented many, many riders who have been in wrecks only to find out that their “full coverage” policy doesn’t begin to do what they need it to do. I have no financial interest in this advice – I’m not trying to sell you insurance. I am giving you real-world information to protect you against the ruin that will come to you if you are in a wreck and don’t have the kinds of insurance coverage and the amounts of insurance coverage that you need. This article is about OHIO law; other states’ laws are different.

KINDS OF MOTORCYCLE INSURANCE COVERAGE

A typical insurance policy consists of the basic insurance agreement, plus *amendments* (changes that are usually specific to a state), plus *endorsements* (changes that are special to your policy). *Amendments* and *endorsements* may either add to the basic coverage or subtract from it.

The typical coverages that are available are:

1. ***Bodily Injury Liability***
2. ***Property Damage Liability***
3. ***Uninsured/Underinsured Motorist Bodily Injury***
4. ***Uninsured/Underinsured Motorist Property Damage***
5. ***Medical Payments***
6. ***Collision***
7. ***Comprehensive***
8. ***Towing & Storage***

So what is all this stuff??? The first thing you need to know is that there is no such thing as a standardized “full coverage” policy. There is such a thing as a “state minimum” policy, but it is about as worthless as training wheels on a rocket. Insurance policies are like tattoos – no two are alike. So let’s look at what kind of coverages there are, and what amounts of coverage you need.

We’ll work from the perspective of three typical wrecks. Wreck A is nobody’s fault. You are coming home from Bike Night somewhere when a damn deer jumps out in front of you. You lay it down, skin up your bike, and break your leg (never mind what happens to the deer).

Wreck B is your fault. You are enjoying a beautiful day, and you fail to yield when you should have. You plow into the side of a minivan full of mom and dad and three kids. You aren’t hurt, but your new bike is toast. Unfortunately, the real problem is that the minivan has a big dent in the side and everyone in it is yelling “whiplash.” The next day, you get a letter from a lawyer you’ve seen on TV who says he’s going to sue you.

Wreck C is the monster. You are riding along minding your own business and some fool on his cell phone in an SUV “doesn’t see you.” As he changes lanes, he grinds you into the guard rail. The bike you just spent six months customizing is a mess, and you are hurt bad enough that you have to be taken by helicopter to the nearest trauma center. There you undergo four hours of surgery, four days in intensive care, a second surgery, six more days in the step-down unit, and go home to several months of physical therapy and rehab – all while you are off work. You’re going to have a scars and a limp for the rest of your life. But best of all, the SUV driver “forgot” to make his insurance payment, so his insurance was

cancelled, and his personal net worth is whatever cash he has in his wallet that day.

Let's start with what the State of Ohio requires you to have. If you want to "be legal" the Ohio Revised Code §4509.01(K) requires that you have *Bodily Injury Liability Coverage* in the amount of \$12,500/\$25,000 (more about why there are two numbers there and what they mean, below), and *Property Damage Liability Coverage* in the amount of \$7,500. That's all. Beyond that, if you have a loan on your bike, the almighty bank will probably require that you have enough *Collision Coverage* to pay off the loan if the bike is totaled. All the rest is up to you.

Now let's look at Wreck A. With the "state minimum" policy + standard *Collision Coverage*, the only thing that will apply is the *Collision Coverage*. Hope you have health insurance! Hope it pays in the event of an accident! If your bike is damaged, but not totaled, be prepared to be without it for a long time; worse, if it is "totaled," I hope your idea of what the bike's "fair market value" is matches the insurance company's idea of the FMV (more about this below).

Wreck B: With the "state minimum" policy + standard *Collision Coverage*, you have all the problems of Wreck A, but now you have a couple of nasty new problems. Your *Liability Coverage* now kicks in. BUT - the estimate to fix the minivan is \$13,000, plus the cost of the rental car while the mini is in the shop – another \$1,000. The estimate to "fix" the personal injury claims of the five people in the van is \$8,000 each. Since you have *Property Damage Liability* limits of only \$7,500, you get a bill for the extra \$6,500 on the van. Ouch. But you have *Bodily Injury Liability Coverage*, right? Yes, but - you only have \$12,500/\$25,000 limits. Here, that means that any one person in the van can get a maximum of \$12,500. So you're good, right? No. Because five times \$8,000 equals \$40,000. So you get a bill for \$40,000 minus your maximum limits of \$25,000. You are personally on the hook for \$15,000 (plus the \$6,500 for the property damage). Know a good bankruptcy lawyer???

Wreck C: Here, with the "state minimum" policy + standard *Collision Coverage*, you are really, really screwed. Your bike loan will get paid off, maybe, but that won't matter because you are on the one-way road to bankruptcy, whether you know a lawyer or not. That cell-phone-talkin' idiot has just cost you anywhere from \$100,000+ in medical bills and \$15,000+ in lost wages - and NO ONE is going to pay you ANYTHING.

You say "that can't be right!" But the fact is, the idiot will never pay you a dime, because he will just go file bankruptcy himself! And with a "state minimum" policy you don't have ANY coverage that helps you! If you don't have health insurance, YOU are going to get a bill for that \$100,000+, and if you do have health insurance, your deductibles and co-pays may leave you with balances you can't begin to pay. Yes, you may lose your home and your car and everything else because you couldn't make the payments while you had no income. No, there is

no magic “fund” out there to pick up the slack. And all the money and time you put into making your bike beautiful is just g-o-n-e.

Now, really, did your friendly insurance agent explain all that to you while he was trying to save you 15% in 15 minutes?

SO WHAT ARE ALL THESE KINDS OF COVERAGE?

What DO you need so that you are protected from the nightmares? First, you need to really understand those eight kinds of coverage I listed above.

1. *Bodily Injury Liability Coverage*

Liability Coverage is for the damage you do to the other guy. When you run a stop sign and smash into somebody, your *Liability Coverage* steps in to take care of your legal responsibility to that other person. In a bodily injury claim (also known as personal injury claim), that is coverage for the other person’s medical bills, lost wages, and what is generally called “pain and suffering”. Also – and few people know this – your *Liability Coverage* pays for a lawyer to defend you if you get sued.

2. *Property Damage Liability Coverage*

This is *Liability Coverage* for the damage you do to the other guy’s vehicle or its contents, and for their “loss of use” claim (think “rental car”).

3. *Uninsured/Underinsured Motorist Bodily Injury Coverage*

If I can tell you one thing it is that you MUST understand the difference between *Liability Coverage* and *Uninsured/Underinsured Motorists Coverage*!

These types of coverage, also known as “UM” or “UIM” Coverage, are insurance for YOUR benefit. When some fool falls asleep at the wheel and drills you, and when that fool does not have any insurance (he is “uninsured”) or does not have enough insurance (he is “underinsured”) your UM/UIM Coverage will pay you for what his insurance would have paid you if he had insurance. Let me repeat that – if someone causes a wreck and doesn’t have any, or enough, insurance, your UM/UIM Coverage will pay what the other person should have paid, up to the limits of your coverage.

This is a big deal. Although Ohio law says you have to have insurance to drive, a LOT of people don’t have any insurance, and a LOT MORE don’t have very much insurance. But a lot of people scrimp on their UM/UIM Coverage to save money. DON’T!

Uninsured/Underinsured Motorist Bodily Injury Coverage is for your medical bills, your lost wages, and your pain and suffering.

4. *Uninsured/Underinsured Motorist Property Damage Coverage*

Uninsured/Underinsured Motorist Property Damage is for the damage the fool did to your vehicle or its contents, and for your “loss of use” claim (think “rental car”). With this coverage, the deductible is limited by law to \$250. This coverage can apply instead of *Collision Coverage* or in addition to it.

5. *Medical Payments Coverage*

Very few people understand what *Medical Payments Coverage* is all about – and that’s a shame, because it is like liquid gold. This coverage pays for medical bills (and sometimes funeral and burial bills) incurred because of an accident. “*Med Pay*” is a no-fault type of coverage. It does not matter how you got hurt – the other guy’s fault, your fault, no one’s fault. Your health insurance may pay some of bills from an accident, but you may not have health insurance, or it may not pay for some types of treatment that you need, or there may be deductibles and co-pays. The other guy’s insurance may pay the bills in the long run, but usually not until the end of the case – which may be too late to save you from bill collectors. If no one is at fault, *Med Pay* may be the only coverage under your policy that pays anything. Trust me – *Med Pay* is one of the best, and relatively cheapest, coverages you can have. Get it.

6. *Collision Coverage*

Collision Coverage kicks in when you wreck (“the upset or collision with another object of your covered cycle”). This coverage is no-fault, and covers the damage from almost any collision regardless of the reason (well. . . there are some exceptions written into every policy). BUT, what does “cover” mean? If you think it means you get paid what you think your bike is worth, you are dead wrong.

First, the difference between a wreck where your bike is “totaled” and where it is repairable: “Totaled” means the cost of fixing the bike is higher than the “value” of the bike. No matter how much you love your ‘ol Hardtail, if it would cost \$12,000 to fix it, and it is only “worth” \$8,000, it is going to the dump. Also, insurance only pays for your bike. Insurance companies have no responsibility to replace your bike.

What does “value” mean? It means “ACV” or *Actual Cash Value* (also known as “FVM” or *Fair Market Value*). ACV is the amount that someone would pay for

your bike if you put it for sale in the paper or on e-Bay. Put on your “buyers” hat, and think what a stranger would pay for your baby. Odds are, it’s not what you think it is worth – but you may be stuck with the “stranger’s” value.

Since very few riders keep their motorcycle in its original condition, this “value” issue is often a big problem as to custom work, too – and one you may not even know about until it’s too late. The value of your bike is not cost plus the amount of money or effort you have invested. Putting \$25,000.00 worth of paint and chrome on a \$5,000.00 bike does not necessarily mean the end result is worth \$30,000.00. It is a rare modification that results in a dollar-for-dollar return in the value. It does not matter how much you “have in it”, if someone walking up to the bike would not pay you as much as you “have in it”.

Most of the time, loss or damage to any custom equipment or paint/chrome, optional equipment, or added equipment not included as standard by the manufacturer is not covered (or is covered only up to a very low amount, say, \$500) unless there is a specific *endorsement* to the policy.

Talk to your agent about this! Get the coverage you want and expect! There are special coverages or special policies available that will cover a bike and its accessories based upon an agreed value, or a value from an appraisal done before you wreck. This kind of coverage is not what you get in standard policies. If you haven’t dealt with this when you get your policy you may be in for a nasty fight after a wreck. These claims are very tough to fight in court, as a practical matter, because of the dollars involved and slow court calendars.

7. Comprehensive Coverage

Comprehensive Coverage takes care of damage to your bike from accidental losses other than those caused by a collision (fire, theft, etc.). However, “comprehensive” does not mean “everything.” There are often *exclusions* for many things, such as your clothes, your tools, or custom items. Helmets are often covered (although some policies are limited to a “Department of Transportation approved helmet”). Insurance companies, at least, believe it is in your best interest to wear a helmet and will “reward” you for wearing one.

8. Towing & Storage Coverage

You had to put it down. What now? You can’t just leave it by the side of the road. And after someone charges you to tow it somewhere, storage charges can be \$20/day or more. These charges usually are not covered in your *Collision Coverage* or *Comprehensive Coverage*. Cover these risks by getting insurance for them.

HOW MUCH COVERAGE IS ENOUGH?

Remember – there is no such thing as a “full coverage” policy. The most anyone can ever be covered for by their policy is defined by the “limits” of the coverage. This works both ways. For *Liability Coverage* – you will only be protected against claims by others up to your liability limit. The rest of the “bill” comes out of your pocket – or your hide. For *Uninsured or Underinsured Motorists Coverage* – no matter how bad you are hurt, or what your case is worth, you will never get more than your *UM/UIM Coverage* limits.

How much is enough? For *Liability Coverage*, it is true that part of the answer to that question depends on how much you have to lose. But if you like your bike, your house, your paycheck and your driver’s license, you better insure against losing them. Typically, motorcycles do not do as much damage to the other guy as cars do. But if you put your bike through the door of a car at 60 miles an hour it does not take much for the people in the car to run up a small fortune in medical bills and lost wages, let alone their pain and suffering claim.

For *Uninsured or Underinsured Motorists Coverage* – remember – this is coverage for what happens to you. Do you want to sell your claim short? I can’t begin to tell you how many “million dollar” cases I’ve handled where the person only got a fraction of that, because that’s all the insurance there was. There is no “magic fund” out there to take care of you – you have to take care of yourself by having adequate coverage.

For *Medical Payments Coverage* – This does depend somewhat on your health insurance picture. If you have great health insurance, you don’t need as much *Med Pay*. But what if you lose your job? What if your company “downsizes” your health insurance? *Med Pay* is cheap, and it is a life saver when you need it.

SO HOW MUCH INSURANCE SHOULD YOU HAVE? In my opinion, you should not be on the road unless you have these minimums:

1. ***Bodily Injury Liability Coverage***

\$100,000/\$300,000. This means One Hundred Thousand dollars for each person who is injured, up to a total of Three Hundred Thousand dollars for everyone hurt in one wreck. This may seem like a lot, but as I said, modern medical treatment is expensive – medical bills and lost wage claims alone can add up faster than you can imagine.

2. ***Property Damage Liability Coverage***

The state minimum is \$7,500. Are there any cars or bikes out there on the road worth more than that? Absolutely! Think about how many new cars

cost more than \$25,000 these days, and you will see that you need at least that much in *Property Damage Liability Coverage*, and you ought to have more to be really safe.

3. *Uninsured/Underinsured Motorist Bodily Injury Coverage*

Think back to “Wreck #3.” How much would *you* want to be paid for that experience? That’s how much *UM/UIM Coverage* you should have. The law says that your *UM/UIM* can’t be higher than your *Bodily Injury Liability* limits, so high *UM/UIM* limits aren’t cheap. But, again, \$100,000/\$300,000 should be the smallest policy you consider. Note – the limits you choose for *UM/UIM Coverage* are not added on top of the other guy’s *Liability Coverage*. By law, it is compared to it, and only applies if your *UM/UIM* limits are higher than their coverage. Example: the bad guy has \$50,000 *Liability Coverage* limits, and you have *UM/UIM* limits of \$100,000. Unfortunately, that means you only get an additional \$50,000 from your policy, not \$100,000. So – your limits only provide a maximum you can recover; you don’t get to add them on top of the other coverage. If they are equal (he has \$100,000 and you have \$100,000), then the law says he is not “underinsured” and you can’t collect anything. This is not true with *Medical Payments Coverage*, which goes “on top of” any other coverage (but subject to *subrogation*, which is a topic for another day).

4. *Uninsured/Underinsured Motorist Property Damage Coverage*

What’s your bike worth? *Uninsured/Underinsured Motorist Property Damage* is not as important if you have *Collision Coverage*, but there may be some price advantages to having this – ask your agent.

5. *Medical Payments Coverage*

Don’t even leave your house without \$50,000 in *Med Pay*. Unless you have great health insurance. Or unless you like paying medical bills out of your own pocket.

6. *Collision Coverage*

You need to cover the real value of your bike, cover the value of your modifications, cover the value of your accessories, and cover the value of your loan. Why end up “in the hole” when an accident happens? Unfortunately, there is a pretty good chance that at some point in your riding career you’ll need this coverage. Be sure you understand what you have before you need it. And don’t try to save a buck by having a high deductible. Do you really want to have to come up with the first \$1,000 or more after a wreck? Odds are you’ll have plenty of other needs for that money.

7. Comprehensive Coverage

Ditto *Collision Coverage*.

8. Towing/Storage Coverage

This coverage isn't that expensive, and it covers bills that are really annoying to have to pay out of your pocket. Get at least \$100 or so for towing, and 30 days worth of storage.

THE POLICY YOU OUGHT TO HAVE

If that's the minimum, what's a really solid policy look like? It looks like the above, but with these changes:

- *Bodily Injury Liability Coverage* and *Uninsured/Underinsured Motorist Bodily Injury Coverage*: \$250,000/\$500,000, with a \$1 or \$2 million "umbrella" on both types of coverage (see below);
- *Property Damage Liability Coverage* of \$50,000, and;
- *Medical Payments Coverage* of \$100,000.00.

Yeah, the ideal policy is going to cost you some money. But it won't cost you anything like what a wreck will cost you if you don't have enough insurance. At the next "bike night" look around. See anyone who has been in a wreck? It happens – and it happens to bikers way more often than it should. Protect yourself. The last thing you need as you are recovering from a wreck is the worry of bill collectors, lawyers, and bankruptcy.

"Umbrella" coverage gives you a lot of extra coverage for not that much more money – talk to your agent about it! You usually have to have pretty high limits on the underlying policy, but it is worth it when you need it.

There are a lot of good insurance companies and good insurance agents out there. Some know bikes and some don't. Several companies are going out of their way to attract bike owners as customers. Talk to several agents. See if they know what you are talking about when it comes to the special needs of bike owners and riders. But most of all – protect yourself. You don't know despair until you have been laying in a hospital bed because some idiot ran over your bike and you get a letter telling you that they didn't have any insurance and/or they just filed bankruptcy. Or until you get sued for way more money than you have coverage for. If you don't take care of yourself, no one else will take care of you. Ride to live and live to ride – without the worries of what will happen if you have a bad day.