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The Rights & Rules of Road Cycling

Introduction

As is evidenced by the success of the Cherry-Roubaix itself, recreational road cycling enjoys immense popularity in Michigan. And, that popularity is ever increasing, as more people take up cycling to stay physically fit, relieve stress, avoid the ever-increasing cost of gas, or simply get outside and enjoy Michigan's beautiful scenery. The growing popularity of road cycling is undoubtedly gratifying to those harboring a passion for the sport, such as those of you who are participating in or attending the Cherry-Roubaix. And rightly so.

Regrettably, however, with road cycling also comes the potential for accidents. Road cyclists often have to navigate roadways largely designed and maintained solely with an eye towards motor vehicle travel. Often they come into contact with motorists who are, shall we say, less than enthusiastic about sharing the road with a bicyclist. And a bicycle helmet and a thin layer of spandex often offer little protection when an accident does occur.

The purpose of this booklet is to provide cycling enthusiasts with a brief overview of the law pertaining to road. Hopefully, this overview will provide you with a general understanding of your rights and duties as a road cycling enthusiast, which will in turn enhance your cycling experience.

Your Rights As A Road Cyclist

Fortunately, understanding the rights of a road cyclist is easy. In fact, the Michigan Legislature has memorialized the rights of road cyclists in one brief statutory clause. That sentence, contained in MCL 257.657, provides: "Each person riding a bicycle . . . upon a

roadway has all the rights . . . applicable to the driver of a vehicle by this chapter.”

The phrase “this chapter” refers to Chapter 257 of the Michigan Compiled Laws, which is commonly referred to as the Michigan Vehicle Code. Accordingly, contrary to what some motorists think, road cyclists have just as much right to use Michigan roads as motorists.

Your Obligations As A Road Cyclist

But just like motor vehicles, road cyclists don't just enjoy rights; they also must observe certain obligations. These obligations have been proscribed by the Legislature in one brief statutory clause, which is also contained in MCL 257.657. That clause states: “Each person riding a bicycle . . . upon a roadway . . . is subject to all of the duties applicable to the driver of a vehicle by this chapter.”

Again, the phrase “this chapter” refers to the Michigan Vehicle Code. Accordingly, a road cyclist all of the right-of-way rules, speed restrictions, traffic signals, and other rules of the road set forth in the Motor Vehicle Code. We presume that most of the persons reading this booklet are already familiar with these laws, so we will not summarize them all here.

However, a few deserve mention. Like motor vehicles, road cyclists are obligated to yield to pedestrians, to signal turns, and to stop at right lights and stop signs. (Contrary to what you may see in aggressive group rides, cyclists do NOT have the right to sprint through stop signs; and cyclists do NOT have the right to roll through a red light even when no other traffic is present). Yield signs must be observed. In fact, except for the supplemental rules we describe below, cyclists have to follow all the same traffic laws as motor vehicles do.

In addition to the rules generally applicable to motor vehicles, however, the Motor Vehicle Code sets forth a few supplementary rules specifically governing the operation of bicycles on streets or highways. These rules are contained in MCL 257.656 through MCL 257.662, and the following is a summary of some of the more pertinent provisions:

1. REQUIRED EQUIPMENT AND GENERAL OPERATIONAL PROVISIONS

- ↪ A bicyclist may not ride anywhere other than upon the actual bicycle seat.
- ↪ A bicycle cannot be used to carry more persons than it is designed and equipped to carry;
- ↪ A bicyclist cannot carry any package, bundle, or article that prevents the bicyclist from keeping both hands on the handle bars. There is little guidance concerning what falls within the gambit of the phrase “package, bundle, or article.” One court has held that it applied where a cyclist was using one hand to tow another bicyclist. Accordingly, the phrase would seem to be broad enough to encompass such things as utilizing a cellular phone or even drinking from a water bottle while actively riding;
- ↪ A bicycle must have brakes capable of making the bike skid on dry, clean, and level pavement when applied by the cyclist;
- ↪ A bicycle being ridden on a roadway cannot be pulled or otherwise attached to a motor vehicle;
- ↪ A bicycle that is ridden on a roadway between ½ hour after sunset and ½ hour before sunrise must have a white headlight that is visible from at least 500 feet in front of the bike, and a red reflector on the back of the bike that can be seen from 600 feet behind the bike when struck with car headlights;
- ↪ There is no Michigan statute requiring that a bicyclist wear a helmet. However, local municipalities can pass ordinances requiring helmets. So if in doubt consult with your local unit of government. In any event the Michigan Department of Transportation reports that head injuries account for most fatalities and serious injuries among bicyclists, so regardless of whether one is required it is still a pretty good idea.

2. MANNER OF OPERATION UPON A ROADWAY

- ↪ A bicycle that is being ridden upon a street or highway at a rate of speed that is slower than existing traffic must stay as close as possible to the right-hand curb or edge of the road unless:
 - (a) The cyclist is passing another bicycle or other vehicle that is traveling in the same direction,
 - (b) The cyclist is preparing to turn left,
 - (c) The cyclist is riding in a lane in which traffic is turning right but the cyclist intends to go straight,
 - (d) The cyclist is riding on a one-way street that is two lanes

wide, in which case the cyclist may ride near the left-hand curb or edge of the roadway, or

(e) It is unsafe for the cyclist to ride on the right-hand edge of the road, or the right-hand edge of the road is reasonably unusable. This can occur because of the presence of, among other things, surface hazards, unevenness in the roadway surface, drain openings, debris, parked or moving vehicles or bicycles, pedestrians, animals, or other obstacles, or if the lane is not wide enough for a motor vehicle to safely overtake and pass the cyclist;

- ↪ Unless they are riding on a path or portion of a street or highway specifically designated for bicycle use, bicyclists riding upon a street or highway cannot ride more than 2 cyclists abreast;

(a) This means that when you are in a double pace lane and you pull off the front to fall to the back, you fall to the back; you do not linger and chat to the other folks because at that point you are now riding three or more abreast.

3. MANNER OF OPERATION UPON A SIDEWALK OR CROSSWALK

- ↪ Persons riding bicycles on a sidewalk or in a crosswalk have the same duties and responsibilities that apply to pedestrians;
- ↪ A bicycle may not be ridden on a sidewalk or crosswalk if prohibited by an official traffic control device;
- ↪ Persons riding bicycles on sidewalks or crosswalks must yield the right-of-way to pedestrians and must give an audible warning before passing pedestrians;
- ↪ Note that many local units of government actually prohibit bicycles from being ridden on sidewalks; again, consult with your local municipality if in doubt;

4. MANNER OF PARKING A BICYCLE

- ↪ Bicycles may be parked along a street or highway wherever motor vehicles are allowed to park, so long as the bicycle does not obstruct the movement of parked motor vehicles;
- ↪ Bicycles may be parked on sidewalks, so long as they do not impede pedestrian or other traffic, except where prohibited by an official traffic control device.

Local counties, cities, townships, or other municipalities may have promulgated their own local ordinances that impose additional rules on road cyclists within their jurisdiction.

Accordingly, the road cyclist should be careful to research and review any local ordinances or

administrative rules that may apply to the particular area.

Potential Liability for Road Cycling Accidents

1. The Potential Liability of the Cyclist

Determining potential liability for road cycling accidents is a rather complex subject that depends a great deal on the type of accident involved. For instance, accidents involving some injury caused by a cyclist, such as colliding with pedestrian or another cyclist, involve different rules than injuries suffered by the cyclist as the result of such things as a collision with an automobile or a fall caused by a defect in the road.

As a general matter, however, liability for road cycling accidents is premised on the legal theory of "negligence." Negligence is a cause of action that permits a person who has suffered personal injury or property damage, called the plaintiff, to recover money damages from another person whose fault caused or contributed to the accident, called the defendant, as compensation for the plaintiff's loss.

If the plaintiff can establish that the defendant was negligent, then the plaintiff is generally able to recover damages. The amount of these damages is typically determined by a jury, which considers evidence proffered regarding the plaintiff's out-of-pocket monetary losses and emotional harm caused by the accident and assigns a value thereto. The value of the plaintiff's injuries as determined by the jury is then reduced in proportion to the amount of the plaintiff's damages that the jury determines were caused by the plaintiff's own negligence, if any. For instance, if the jury determines that the plaintiff's total damages are \$10,000, and decides that 60% of those damages were caused by the defendant's negligence while 40% were caused by the plaintiff's own negligence, then the total verdict rendered in the plaintiff's favor is \$6,000. This is referred to as the doctrine of comparative negligence.

In order to recover under a negligence theory, the plaintiff must establish four things. The first is that the defendant had an obligation to avoid creating a risk of injury to the plaintiff

("duty"). The second is that the defendant failed in his obligation ("breach"). The third is that the plaintiff suffered physical injury or financial losses ("damages"). The fourth, and final, element that the plaintiff must establish is that the defendant's breach of his duty of care caused the plaintiff's damages ("causation").

Perhaps the most important of these elements is "duty." The reason is that the element of duty is set by the law, while the other elements depend for the most part on the facts of the case. That is, there is always some provision of law that either directly dictates or gives guidance as to how one must act in a given situation to avoid injuring others.

Determining the specific duty of care owed by a road cyclist generally depends on who the injured person is or, rather, their relationship to the road cyclist. Accordingly, the following is a summary of a road cyclist's duty of care with regard to some of the more common types of persons road cyclists encounter.

a. The Road Cyclist's Duty of Care to Other Road Cyclists

The Michigan Supreme Court has recognized that participation in many recreational activities carries with it foreseeable, inherent built-in risks of harm. These risks include occasional injuries, variations in skill level and play style among co-participants, and carelessness, ordinary negligence, or even rule violations by co-participants. Based on the notion that participation in recreational activities carries with it the voluntary assumption of such risks, the Court has held that a participant in a recreational activity, such as a road cyclist, is not liable for an injury sustained by a co-participant absent a showing that he or she intentionally or wilfully caused the injury or acted with "recklessness."

The standard of recklessness, sometimes referred to as "wantonness," is a term with a recognized meaning in the law. It refers to conduct that displays such indifference as to whether an injury will occur that it is held to be equivalent to a willingness that it does. Thus, even if it results in an injury, an action falling within the range of conduct ordinarily involved in

a particular recreational activity, such as road cycling, does not suffice to establish recklessness. Moreover, in most circumstances, a participant will not be found to have acted recklessly even if the participant has violated formal or informal safety rules applicable to the specific recreational activity.

As an example, if you are in a pace line and another cyclist in the line accidentally locks bars with you and you both go down and you are injured, the other cyclists might have been negligent, but he does not necessarily owe you damages in a negligence suit because while he was careless he wasn't necessarily acting intentionally or recklessly. He may simply have made a mistake, as opposed to being indifferent to whether an injury would occur.

b. The Road Cyclist's Duty of Care to Non-Participants

Generally, the duty of care owed by a road cyclist to non-participants, such as pedestrians, is that of "reasonableness." This means that the road cyclist must exercise the level of care that a hypothetical reasonably prudent person would use under the same or similar circumstances.

In some cases, a jury determines based on the facts presented what a reasonably prudent person would have done under the circumstances. However, in other instances the determination of what is reasonable under the circumstances can be affected by a statute. This is because a defendant's violation of a statute that was designed to protect persons such as the plaintiff from the type of harm that occurred creates a rebuttable presumption that the defendant was negligent if the statutory violation caused or contributed to the harm.

As a hypothetical example of this, imagine that a road cyclist is riding and talking on his cell phone. He suddenly notices a pedestrian in front of him but, because the cell phone is in his right hand, he is unable to adequately apply his brakes or steer his bike around the pedestrian. He thus strikes the pedestrian. In this instance it likely will not be up to the jury to determine whether the cyclist acted as a reasonably prudent person would have under the

same or similar circumstances. Rather, recall from the Rules of Road Cycling section that there is a Michigan statute prohibiting a cyclist from operating a bicycle while carrying any package, bundle, or “article” that prevents the cyclist from keeping both hands on the handle bars. Thus, what was reasonable for the cyclist in this instance has been set by statute; i.e., the statute makes clear that it was unreasonable for him to continue riding his bike while holding his water bottle because it prevented him from keeping both of his hands on the handle bars. Since this statute was undoubtedly designed to protect persons such as the pedestrian from accidents such as the one that occurred, a rebuttable presumption will arise that the road cyclist was negligent.

What is reasonable in a given situation can also be affected by any administrative regulations or local ordinances that may apply. While a defendant’s violation of an administrative regulation or local ordinance does not create a presumption of negligence like the violation of a statute, it does constitute evidence of negligence. While there are very few administrative regulations currently applicable to road cycling, numerous local ordinances have been promulgated by various governmental agencies throughout Michigan.

As a final matter regarding the duty owed by a road cyclist to non-participants, it should be noted that the “reasonableness” standard only applies to persons such as pedestrians that are neither cyclists themselves nor in any way involved with the cycling being conducted. The reasonableness standard may not, however, apply to persons that, although not cyclists themselves, are in some sense connected to the cycling that is taking place. Such persons could include, among others, spectators at road cycling events like the Cherry-Roubaix.

The reason is that with some sports, like baseball, the appellate Courts have stated that spectators are held to have voluntarily assumed certain risks by putting themselves in close proximity to the field of play. While the Courts have not yet addressed this with regard to road cycling itself, there is no reason to believe that road cycling would be treated any

differently from other sports. Accordingly, it is safe to assume that the duty owed to spectators at a cycling event would fall somewhere between the reasonableness standard and the recklessness standard.

2. Potential Liability to the Cyclist

In some cases determining a road cyclist's potential ability to recover damages for an injury sustained depends upon the same rules that apply to determine a cyclist's potential liability for an injury caused by a cyclist. For instance, if a cyclist is injured by another cyclist, potential liability is determined according to the recklessness standard described above. Similarly, if a pedestrian does something to injure a cyclist, the pedestrian's potential liability will depend on the reasonableness standard outlined above.

There are, however, certain situations where a cyclist's ability to recover damages for an injury have been greatly altered by statute. Perhaps the two most important to the road cyclist are injuries suffered in collisions with automobiles and injuries suffered because of a defect in the roadway.

a. Road Cyclists and Automobile Accidents

Potential liability for injuries sustained by a road cyclist as a result of a collision with an automobile is dramatically different from potential liability for non-motor vehicle related accidents because of the Michigan No-Fault Automobile Insurance Act, MCL 500.3101, et seq.

The no-fault act for the most part abolishes the common-law fault-based tort system of liability for accidents involving motor vehicles. This is because it automatically entitles persons injured in motor vehicle related accidents to recover compensation for certain, limited "economic" damages (i.e. medical expenses, reimbursement for lost wages, compensation for property damage, etc.), called no-fault benefits, regardless of whether the injured person was at fault in causing the accident so long as the injured person either maintained a no-fault

policy or was not required by the no-fault act to maintain a no-fault policy.

As a trade-off for this automatic entitlement to no-fault benefits, the no-fault act significantly limits an injured person's ability to file a lawsuit seeking additional damages from another person who was at-fault and either maintained a no-fault policy or was not required to maintain a no-fault policy. Most importantly, the injured party may not sue an at-fault party for "non-economic" damages (i.e., pain and suffering, etc.) unless the injured person was less than 50% at fault in causing the accident and either dies or suffers a "serious impairment of body function" or a "permanent serious disfigurement." Other limitations are also placed on the injured party's ability to recover economic damages beyond those recoverable as no-fault benefits, and the injured party's ability to recover for property damages.

Accordingly, if a road cyclist is injured due to a collision with an automobile then the cyclist is entitled to recover PIP benefits, regardless of whether the accident was caused by the negligence of the automobile operator or the cyclist themselves. Similarly, even if the automobile operator was solely at fault for causing the accident, the injured cyclist's ability to sue the at-fault driver is limited as describe above if the owner or registrant of the car has obtained and maintained a policy of no-fault insurance as required by the no-fault act. **b.**

Road Cyclists Injured by Defects in the Roadway

If a road cyclist suffers injury because of a defect in the road, his or her ability to recover damages from the governmental entity having jurisdiction over the roadway depends upon the Governmental Tort Liability Act, MCL 691.1401, et seq. ("GTLA").

The GTLA broadly immunizes governmental agencies from tort liability. There are only six exceptions to this immunity, one of which is commonly referred to as the "highway exception." This exception imposes upon each governmental agency having jurisdiction over a public "highway" (which also includes roads or streets, whether paved or unpaved, so long as they are open for public travel) a duty to maintain the highway in reasonable repair so that

it is reasonably fit for public (not just vehicular) travel. It further permits persons who suffer personal injury or property damage as a result of the governmental agency's failure to do so (including cyclists) to recover damages from the governmental agency.

While the highway exception appears broad at first glance, it is, like the other exceptions to governmental immunity, in actuality extremely narrow for several reasons. First, it only applies where the injury arises from the governmental agency's failure to repair or maintain the actual, traveled portion of highway itself — it does not create an exception where the governmental agency has negligently designed the roadway, failed to correct a defect in the original design, or been negligent with respect to some action outside of the roadway, such as failing to post adequate signs, etc.

Also limiting the highway exception is the fact that although the GTLA imposes the duty to repair and maintain highways upon all governmental agencies it differentiates between governmental agencies with respect to the scope of this duty. This is because the duty of the state and county road commissions to repair and maintain only extends to the improved portions of the highway that are “designed for vehicular travel;” i.e., the actual lanes of the highway. Thus, while the state and county road commissions must reasonably maintain and repair the actual lanes of a highway so that they are reasonably safe for pedestrian or bicycle travel as well as vehicular travel, they have no such duty with respect to such things as bike paths designated immediately beside such lanes or on the shoulder of the highway.

The duty of municipalities to maintain and repair, on the other hand, is somewhat broader because it does extend to portions of a highway that are not designed for vehicular travel, including “a sidewalk, a trailway, a crosswalk, or other installation.” Although the courts have not yet been presented with the issue, this may in some instances require municipalities to repair and maintain bicycle paths that exist alongside highways. Note, however, that the GTLA creates a rebuttable presumption that the municipality maintained a sidewalk, trailway,

crosswalk, or other installation in reasonable repair if the personal injury or property damage resulted from a defect consisting of a discontinuity of less than two inches.

Further limitations upon the highway exception stem from the fact that liability cannot be imposed upon the governmental agency having jurisdiction unless certain conditions precedent are satisfied. With respect to defective conditions outside of the portion of the highway designed for vehicular travel — for which only municipalities possess a duty to maintain — it must be established that the municipality either knew of the defect, or in the exercise of reasonable diligence should have known of the defect at least 30 days before the personal injury or property damage occurred. With respect to defective conditions within the portion of the highway designed for vehicular traffic — for which the state, county road commissions, and municipalities possess a duty to maintain — it must also be established that the governmental agency either knew of the defect, or in the exercise of reasonable diligence should have known of the defect, and had a reasonable time to repair the defect before the personal injury or property damage occurred.

So, bottom line is, it can be extremely difficult to sue the government when the road or some traffic control device is to blame for the accident.

Conclusion

We hope you have found this primer on road cyclist rights and responsibilities to be of value.