
**Know Your Rights Manual
For NYC Messengers**

**Brought to you by the New York Bike
Messenger Association**



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Introduction

Hello fellow messengers and welcome to our first Know Your Rights Manual! The New York Bike Messenger Association (NYBMA) put this booklet out after our first legal clinic. We realized how little we knew about laws and how much of an advantage people had over us as a result- motorists, bosses, police officers to name a few.

From rookie to old time vet, we hope that you find this booklet to be a wealth of information. The next time someone yells at you to “follow the traffic laws”—from the yuppie who doors you getting out of the cab to the cop who pulls you over for riding “two abreast”—pull this out. The next time your boss threatens to fire you for filing for worker’s compensation, pull this baby out of your bag and shove it in their faces and scream—

BIKE MESSENGERS HAVE RIGHTS AND I KNOW MINE!!!

Yeah, baby!

**Ride hard, ride safe and forever in solidarity,
The New York Bike Messenger Association**

Accidents

When you first get into an accident, remain calm. It is nearly unavoidable in our line of work. Here are a few key things that you should do in case you get into a serious accident so that you'll be properly compensated and looked after.

Vehicular accidents.

1) If you get hit by a car, go to the hospital. Don't worry about who is going to pay for it. Under "no fault law" (see page 5) your medical bills will be covered even if you were in the wrong. Due to the adrenaline from the accident you might not notice how seriously injured you are. Also, some internal injuries don't get discovered until far after you have left the scene.

2) If you hit your head or back - DON'T MOVE until EMS comes and stabilizes you. Even if you are wearing a helmet! This is important because you can cause severe brain damage and risk paralysis.

3) Make sure someone calls 911. Luckily, if you get hit while at work, there'll be no shortage of "heroic" pedestrians eager to crowd around and gawk at you while ten of them are simultaneously calling 911 on their cell phones. But if you are riding at night, call 911 or have someone do so if a car hits you and damages you or your bike.

4) Get a police report within 24 hours of the incident. This is very important. You need this to file for worker's compensation, to get your medical bills paid for, to get time off of work and to recover any damage done to your bike.

5) Get your accident report number and keep it on you while at the hospital. Don't lose it! When you get out, call the precinct where you had the accident and give them this number. You can get all the information you need this way.

The information you need at the scene of the accident:

This information will be provided by the police report. However, sometimes not all information is included due to negligence on the part of the police officer. Make sure that the police report has the following information, or if for some reason you choose not to call the police then make sure you get the following at the site of the accident:.

- 1) Vehicle's license plate number
- 2) Information from the driver's insurance identification card (with the coverage dates if possible)
- 3) The owner's full name as it appears on the vehicle's registration
- 4) Names, addresses and phone numbers of at least two witnesses

No Fault law

What is it?

No fault law in New York state is the trade off the public gets in exchange for the right to sue. All parties in an accident have certain things covered no matter what.

What does it cover?

Medical bills, time missed from work, damages to your bike. The minimum liability insurance that the motorist must carry by law includes a clause known as "25/50/100." This means that the insurance will cover up to \$25,000 in liability for each victim, \$50,000 for each accident and \$100,000 for a death.

How do I file a claim?

When you get out of the hospital, obtain your accident report from the precinct in which the incident occurred (see page 21).

You have **30** days to file a claim with the driver or car owner's insurance carrier; otherwise you're on your own.

Send letters to the car owner's insurance company asking for a "no fault application." This is why it's necessary to get the insurance information at the scene of the accident. If you didn't get the insurance information at the time, contact the owner or driver immediately to insure that the insurance company will send you the application right away. Once you get the application, this is a pain, but make sure you send your completed form via "certified mail return receipt" from the post office. This way, no one can claim that you did not act within your allotted 30 days.

For medical bills: you need to submit a police report, as well as hospital records and bills to the no-fault insurance carrier.

For time off work: You need a doctors note saying that you couldn't work and a form filled out by your company averaging out how much money you make a week.

For damages to your bike: You need an itemized bill from a mechanic.

Once you've completed your application the no-fault carrier has **30** days to accept or reject your claim. See the following website for more detailed information: http://www.doranandmurphy.com/practice_mvnofault.asp

So, when can I sue?

You can only sue for "pain and suffering" if you get what is called an "extensive injury". What this includes is determined by the law, but generally means: a fractured bone, losing a limb, death, dismemberment, loss of fetus, permanent/significant loss of body function, being out of commission for the first 90 days of the accident.

By the way, you definitely need an attorney if any of this applies to you! (See page 19)

Hit and Run

If the car hits you and scrams- this is highly illegal! Try to at least get their license plate number. A bike lawyer will have access to the Department of Motor Vehicles database and can do a search for you for a few bucks.

If there was no way you could get the identification of that car (or if the car that hit you has no insurance)—don't worry! You have one final resort.

MVAIC

Motor Vehicle Accident Indemnification Corporation. Huh? It's the corporation that was set up to help you out if you were involved in a hit and run or if the car that hit you was uninsured.

How do I file a claim?

You need an accident report! Go to the police within 24 hours of the incident and get one! You have **90** days to file and prove that the vehicle had no insurance or you couldn't identify it. You can get up to \$50,000 in medical and hospital bills paid for and up to \$1,000 per month of time off work. You can also get up to \$10,000 in pain and suffering but the same no fault rules apply.

You can contact MVIAC at:

10 William Street
New York, New York 10038
(Tel: 212-791-1280) (Fax: 212-732-1826).

I'm fine, but my bike is wrecked!

The most power you have comes from your right to sue a vehicle—a.k.a. “street justice”. This is especially powerful if the driver is at fault and they feel guilty. While getting the driver's information, level with the driver and try to “settle” on the street. Tell them that if they give you \$300 (for example, depending on how bad the damage is), you won't call the cops and sue them for damages to your bike. Usually, the driver will be happy to negotiate as this would be far cheaper than having their insurance premiums raised. The upside is that you get cash fast without going through any bureaucratic hassles. The downside is that you might have a small but expensive damage—like a small crack in your frame—that will cost you more than you realized at the time of the accident.

Small claims court

You can file a claim in small claims court for damages under \$2,000. First of all, you or someone on your behalf has to come to Small Claims Court to file a statement of your claim. You will also need \$10 for the filing fee if your claim is \$1,000 or less and \$15 for more than \$1,000 To support your suit, you need photographs of your damaged bike, a signed itemized estimate from a bike shop or expert testimony from a mechanic. You also must provide the name and address of the person being sued. You also have to pick a Small Claims Court in an area where the defendant lives, works or has a place of business.

Small claims court address:

111 Centre Street
New York, NY 10013
General Information.....(212) 791-6000
Small Claims Clerk's Office.....(212) 374-5779

What to do if I can't work?

Worker's Compensation

Employers pay for worker's compensation insurance, usually through the New York State Insurance Fund, in the event that their employees get injured while on the clock. The reason why worker's compensation is so taboo within the bike messenger industry is the high risk nature of our jobs: worker's compensation claims raise the cost of their insurance rates.

It is your right as an employee to receive worker's compensation. It is the legal responsibility of your employer. If your boss coerces you not to file for worker's compensation or threatens to fire you (or actually fires) if you do file, then your boss is in breach of the law. Such actions are highly illegal! You may have a law suit on your hands.

In a normal worker's compensation claim, no one is at fault. The claim is paid for if the employer or insurance carrier agrees that the injury or illness is work related. If either one disputes, no money will be paid until a worker's compensation judge decides who is right.

How do I file?

You must report an injury to your employer within 30 days.

Your boss should have the form, called the C3 in the office for you. You can also download it at:

<http://www.wcb.state.ny.us/content/main/forms/c3.pdf>

You also need your doctor to fill out the C4 form for your medical bills to be paid . This form will provide the Worker's Compensation Board with your medical condition and it will also determine how much your cash benefits will be. You can download this form at

<http://www.wcb.state.ny.us/content/main/forms/c4.pdf>

Or go to:

Manhattan district worker's compensation office
215 W. 125th St.
1-800-877-1373

And remember: please keep copies of ALL paperwork related to your work, injury and medical treatment.

What's the deal with the money?

Cash benefits are not paid for the first seven days of the injury unless it extends beyond 14 days. If that happens then the money will be paid from the first day of the injury. However, medical benefits are paid for no matter how much work you miss. SO, if you are injured and unable to work for more than 7 days, you will receive weekly cash benefits. The amount of money is calculated based on what you made the year before.

The calculation is: $2/3 \times \text{average weekly wage} \times \% \text{ of disability}$

Can I sue?

Worker's compensation is also considered "no fault" meaning that whoever's fault it is you can still file. It also means that you cannot sue your employer. However if you have a substantial injury, like a permanent disability, you can file for a Schedule Loss of Use Award. This will provide you with extra money if you have something horrible happen like a loss of limb, hearing or eyesight.

If you are having problems filing for worker's compensation

Call the Advocates for Injured Workers

They are supposed to help injured workers navigate through the worker's compensation system.

1-800-580-6665

Disability

IF there is a dispute in your worker's compensation case, you should file for disability. However, you will only get cash benefits and no medical care. The maximum amount of time you get disability benefits is 26 weeks and the maximum amount of money you can receive is \$175/ week.

You can also file for disability benefits when you are injured OFF THE JOB or have an illness that you get from not working. The Disability Benefits Law provides weekly cash benefits to replace, in part, wages lost due to injuries or illnesses. Disability benefits are also paid to an unemployed worker to replace unemployment insurance benefits lost because of illness or injury.

If you are currently a working messenger, or if you have been unemployed for less than four weeks from the date the disability began, file the claim with your employer or insurance carrier, using form **DB-450**.

If you have been unemployed more than four weeks from the date the disability began, file the claim with the Disability Benefits Bureau, using form **DB-300**.

You must file your claim within 30 days after you become disabled. If you file late, you will not be paid for any disability period more than two weeks before the claim is filed. Late filings may be excused if it is shown that it was not reasonably possible to file earlier. No benefits will be paid if you file more than 26 weeks after your disability begins.

You need a physician, chiropractor, podiatrist, psychologist, dentist, certified nurse, or midwife to fill out and sign the "Health Care Provider's Statement" as proof of your disability.

Your employer will also have the DB450 form, or you can get it on the web at: <http://www.wcb.state.ny.us/content/main/forms/db450.pdf>

or:

Disability NYC District Office

718-802-6600

180 Livingston St.

Brooklyn, NY

Or call:

Disability Benefits Bureau

1-800-353-3092

For information, counseling, and referrals about Social Security Disability Claims (SSDI), contact:

Workers' Defense League

275 Seventh Avenue

212-627-1931

Unemployment Action Center

240 Mercer Street

212-998-6568

New York State Department of Labor, Unemployment Claim Information

52 West 20th Street

212-242-8900

Hospitals in Manhattan

with emergency rooms

Beekman Downtown

170 William St
(212)312-5000

Bellevue Medical Center

462 First Ave
(212) 561-4141

Cabrini Medical Center and Emergency Room

227 E 19th St
(212) 995-6000

Cornell Medical Center

525 E 68th St
(212) 746-5454

Gouverneurs

227 Madison St
(212) 238-7000

Gracie Square

420 E 76th St
(212) 988-4400

Lenox Hill

100 E 77th
(212) 439-2545

Roosevelt

428 W 59th St.
(212) 523-4000

St. Clare's

415 W 51st St
(212) 586-1500

St. Luke's

419 W 114th St
(212) 523-4000

St. Luke's Roosevelt Emergency Room

58th St and Ninth Ave
(212) 523-6800

St. Vincent's Emergency Room

11th St and Seventh Ave
(212) 790-7997

Sydenham Neighborhood Family Care Center

215 W 125th St
(212) 932-6500

The Strang Clinic

55 E 34th St
(212) 794-4900

American Friends Laniado Hosp

18 W 45th St 10036-4202
(212) 944-2690

Beth Israel Medical Center

First Avenue At 16th Street
(212) 420-2000

Cabrini Medical Center

137 2nd Ave4
(212) 674-0220

Cabrini Medical Center

233 3rd Ave
(212) 995-6900

Hospital For Special Surgery

535 E 70th St
(212) 606-1236

Medicaid Metropolitan Hospital

1901 1st Ave
(212) 230-6583

Mount Sinai Medical Center

5th Avenue & 101st Street
(212) 241-6500

New York Foundling Hospital

590 Avenue Of The Americas
(212) 633-9300

New York Foundling Hospital

18 W 18th St
(212) 463-0022

**Urgent Care Center at New York
Hospital**

525 E 68th St, between York and the
E River,
(212) 746-0795

Free and Low-Cost Health Clinics in NYC

RYAN-NENA COMMUNITY HEALTH CENTER

General medicine, dental care, vision exams, counseling, and lab work, and they even have an allergist and a heart specialist on staff—all priced on a sliding fee scale. They can also help you qualify for insurance.

ryancenter.org

East Village

279 East 3rd Street

212-477-8500

Upper West Side

110 West 97th Street

212-749-1820

Chelsea

645 Tenth Avenue

212-265-4500

MICHAEL CALLEN-AUDRE LORDE COMMUNITY HEALTH CENTER

Focused on the issues of the gay community but welcoming patients of any sexuality, Callen Lorde offers dental, mental health, gynecology, and general medical services in a state-of-the-art Chelsea facility. Sliding scale. Call for appointment.

callen-lorde.org

356 West 18th Street

212-271-7200

NEW YORK CITY FREE CLINIC

Sidney Hillman Health Center

Every Saturday from 9 a.m. to noon, volunteer doctors and NYU med students offer consultations, physicals, lab services, radiology, and pharmaceuticals to the uninsured. Free. Call for appointment 4 to 6 p.m. on weekdays (Tuesday 6:30 to 8:30 p.m.), Saturday from 9 a.m. to noon.

endeavor.med.nyu.edu/freeclinic/index.html

16 East 16th Street, third floor,

917-544-0735; 212-263-1001

PACIFIC COLLEGE OF ORIENTAL MEDICINE'S CLINIC

Eastern medicine can help soothe arthritis, asthma, toothaches, depression, migraines, and more. The acupuncture interns, supervised by

licensed professionals, can rebalance your chi for the reasonable price of \$30 per session and/or prescribe some curative Chinese herbs from the in-house pharmacy. Appointment or walk-in.

pacificcollege.edu/clinic/newyork/serv_fees.html

915 Broadway, Third floor

212-982-4600

NYC DEPARTMENT OF HEALTH & MENTAL HYGIENE

<http://www.nyc.gov/html/doh/html/std/std2.html>

Central Harlem

STD Services & HIV Counseling and Testing:

Monday thru Friday — 8:30- 4:30

Emergency contraception is available.

2238 Fifth Avenue @ 137th St

New York, NY 10037

212-690-1760 - Call before attending

East Harlem

STD Services:

Tuesday, Wednesday & Thursday — 8:30-4:30

Emergency contraception is available.

HIV Counseling & Testing

Monday thru Friday — 8:30-4:30

158 East 115th Street

New York, NY 10029

212-360-5962 - Call before attending

Chelsea

STD Services & HIV Counseling & Testing:

Monday thru Friday — 8:30- 4:30

Saturday — 9:00-2:00 P.M.

Emergency contraception is available.

303 Ninth Avenue @ 28th St.

New York, NY 10001

212-239-1718/0843 - Call before attending

Riverside

STD Services & HIV Counseling & Testing

Hepatitis Services also available

Monday thru Friday — 8:30-4:30

Emergency contraception is available.

160 West 100th Street

New York, NY 10025

212-865-7757 - Call before attending

NYU COLLEGE OF DENTISTRY'S CLINIC

Initial checkup, a full series of X-rays, and an oral-cancer screening for \$90.

Call for appointment. Reduced-cost services available.

nyu.edu/dental/patientinfo/clinic_info.html

345 East 24th Street

212-998-9800

DR. DAVE ORES

Rates are posted in the examination room, but he often concludes visit by asking people to pay as much as they can afford. Call for appointment.

15 Clinton Street, Manhattan

646-435-0009

davidjoresmd.com

NEW YORK TECHNICAL COLLEGE

Students offer three hour cleaning for \$10 and X-rays for \$5. Only during school months (September-June).

Tillary & Jay Street, Brooklyn

718-807-1574

The Walton Free Clinic (ECHO Free Clinic) Walton Family Health Center

1894 Walton Avenue (corner of Walton Avenue and 177th Street)

Bronx, NY 10453

Saturday morning hours

Call 1-800-836-1316 to schedule an appointment or 718-583-3060

Walk-ins are accepted, but it is best to make an appointment

Accepts uninsured and underserved

Bronx Community Clinic

953 Southern Blvd.
Bronx, NY 10459
(718) 741-4900

Bedford Stuyvesant Family Health Center

1413 Fulton Street
Brooklyn, NY 11216
Phone: 718-636-4500

Brooklyn Community Clinic

1205 Sutter Avenue
Brooklyn, NY 11208
Phone: 718-647-2600

Mental Health Free Clinic: Fieve Clinical Services, Inc.

226 East 79th Street New York, NY 10021
(212) 772-3570

Monday: 9:30 AM to 6:30 PM Tuesday, Wednesday, Thursday: 9:30 AM to 6:00 PM

Friday: 10:00 AM to 4:00 PM

Free medical and psychological evaluations.

www.fieveclinical.com & www.depression-md.com

List of Bike Lawyers

For personal injury cases, you can go to Adam D. White, the lawyer who has been giving legal clinics for the NYBMA.

Adam D. White

212-577-9710

adamlaw@earthlink.net

Robert S. Fader

800-796-5657

cyclalaw@aol.com

Barton Slavin

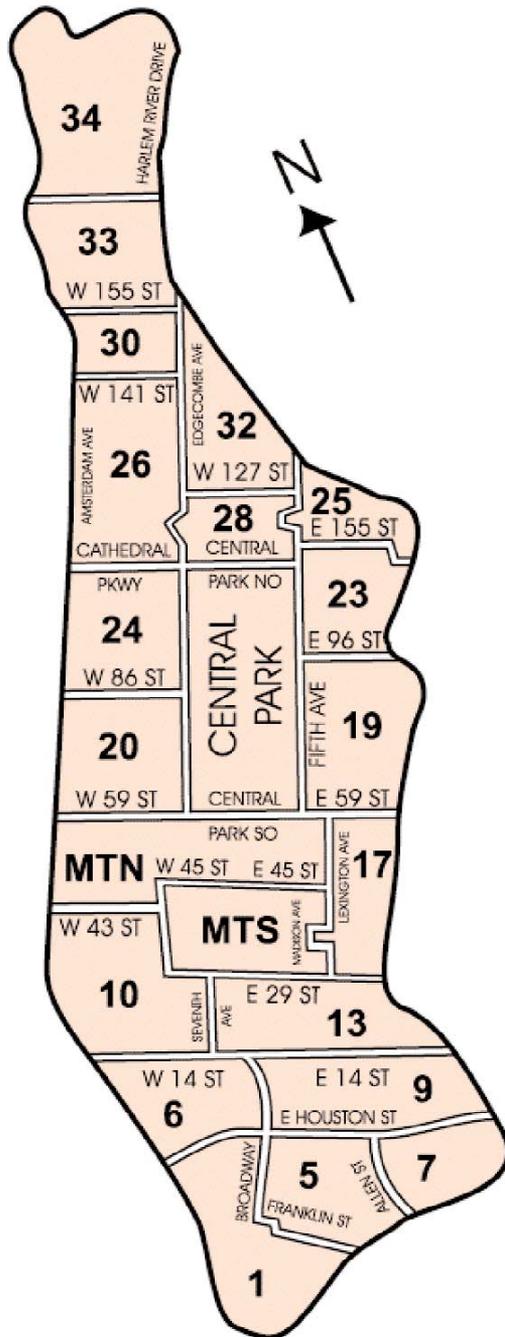
212-233-1010

bslavin@nycattorneys.com

Matthew Sakkas

212.693.1313

sakkas@att.net



List of Police Precincts

Precinct	Address	Telephone
1	16 Ericsson Place	334-0611
5	19 Elizabeth Street	334-0711
6	233 West 10th Street	741-4811
7	191/2 Pitt Street	477-7311
9	321 East 5th Street	477-7811
10	230 West 20th Street	741-8211
13	230 East 21st Street	477-7411
Mid-Town South	357 West 35th Street	239-9811
17	167 East 51st Street	826-3211
Mid-Town North	524 West 42nd Street	767-8400
19	153 East 67th Street	452-0600
20	120 West 82nd Street	580-6411
Central Park	86th St & Transverse Rd	570-4820
23	163 East 102nd Street	860-6411
24	151 West 100th St	678-1811
25	120 East 119th St	860-6511
26	520 West 126th St	678-1311
28	2271-89 8th Ave	678-1611
30	451 West 151st St	690-8811
32	250 West 135th St	690-6311
33	2120 Amsterdam Ave	927-3200
34	4285 Broadway	927-9711

List of Bike Shops

With a star next to those that we know of that give bike messengers a discount or other special considerations.

Downtown Manhattan (Below 14th St.)

***Gotham Bike Shop** 116 W Broadway between Duane and Reade St, 212-732-2453

Bicycle Habitat 244 Lafayette between Prince and Spring St, 212-431-3315

***Canal St Metro** 417 Canal St at Varick St, 212-334-8000

***Bikeworks NYC** 106 Ridge St. at Rivington St, 212-388-1077

Frank's Bike Shop 553 Grand St between Henry and Madison St, 212-533-6332

Manhattan between 14th and 40th St

A Bicycle Shop 349 West 14th St between 8th and 9th Ave, 212-691-6149

***Sixth Ave Bicycles** 546 6th Ave between 14th and 15th St, 212-255-5100

***Chelsea Bicycles** 156 West 26th St between 6th and 7th Ave, 212-727-7278

***City Bicycles** 315 W. 38th St, 212-563-3373

***14 St Metro Bikes** 332 East 14th St between 1st and 2nd Ave, 212-228-4344

Emey's Bike Shop 141 East 17th St between Lexington and 3rd Ave, 212-475-7409

Sid's Bike Shop 235 East 34th St between 2nd and 3rd Ave, 212-213-8360

Manhattan between 41st and 60th St

***Midtown Bicycle** 360 West 47th St between 8th and 9th Ave, 212-581-4500

Manhattan Bicycles 791 9th Ave between 52nd and 53rd St, 212-262-0111

***ANewGen Bikes** 832 9th Ave between 54th and 55th St, 212-757-2418

Scandinavian Ski & Sport 40 West 57th St between 5th and 6th Ave, 212-757-8524

Conrad's Bike Shop 25 Tudor City Pl near 1st Ave and 41st St, 212-697-6966
Bike Heaven 348 East 62nd St between First and Second Avenue, 212-230-1919

Manhattan Upper West Side

***Toga Bike Shop** 110 West End Ave between 64th and 65th St, 212-799-9625
Bicycle Renaissance 430 Columbus Ave between 80th and 81st St, 212-724-2350

Eddie's Bicycle Shop 490 Amsterdam Ave between 83rd and 84th St, 212-580-2011

***96 St Metro Bikes** 231 West 96 St between Broadway and Amsterdam, 212-663-7531

Manhattan Upper East Side

Larry & Jeff's 1400 3rd Ave between 79th & 80th St, 212-794-2929

Larry & Jeff's 1690 2nd Ave between 87th and 88th St

***Metro Bicycle Store** 1311 Lexington Ave at 88th St, 212-427-4450

Upper Manhattan

Victor's Bike Repair 4125 Broadway between 174th and 175th St, 212-740-5137

Tread Bike Shop 225 Dyckman St at Riverside Dr, 212-544-7055

What's the Law?

Many cops don't even know the law. How many times were you pulled over for something that you swore that the cop made up? Know the law, and you will have power. This information is from Transportation Alternatives/

Rights and Responsibilities

You must obey traffic laws. Every bicyclist and in-line skater has the same rights and is subject to the same duties as a driver of a vehicle, with certain exceptions. (NYS 1231)

Where to Ride

Ride in the bike lane if provided, except for safety, turns, etc. (NYC 4-12, p)

On a wide one-way roadway, ride on either side. (NYC 4-12, p)

Ride on the right side of the roadway, with above exceptions. (NYS 1234)

Where Not to Ride

Don't ride on the sidewalk unless you are twelve years old or younger. (NYC 4-07, c)

If you ride on the sidewalk, your bike can be confiscated. (NYC Admin Code 19-176)

Don't ride on expressways, highways, interstates or thruways unless authorized by signs. (NYC 4-12, o)

How to Ride - How Not to Ride

Don't hitch your bike or cling to any other vehicle on the roadway. (No skitching.) (NYS 1233)

Don't ride more than two abreast. Ride single file when being passed. (NYS 1234)

Use hand and arm signals to indicate turns and stops. (NYS 1237)

If you're carrying packages, keep at least one hand on handlebar. (NYS 1235)

Don't ride friends on the handlebars or seat. Carry only the number of persons for which your bike is designed. (NYS 1232)

Ride with your feet on the pedals. (NYS 1232)

Equipment

Don't wear headphones or a walkman while riding. (NYS 375)

Use a white headlight and red taillight from dusk to dawn. (NYS 1236)

You must have a bell or other audible signal (not a whistle). (NYS 1236)

You must have working brakes. (NYS 1236)

You must have reflectors, reflective tires and/or other reflective devices. (NYS 1236)

Only bicyclists under 14 years old must wear a helmet. (NYS 1238)

Special unabridged bike messenger laws

These haven't been enforced since the Giulianani era, but you never know when you will get harassed for any of the following ordinances.

ADMINISTRATIVE CODE OF THE CITY OF NEW YORK TITLE 10: PUBLIC SAFETY CHAPTER 1: PUBLIC SAFETY

NYC Administrative Code § 10-157 (2001)

§ 10-157 Bicycles used for commercial purposes.

a. Every person, firm, partnership, joint venture, association or corporation which engages in the course of its business, either on behalf of itself or others, in delivering packages, parcels, papers or articles of any type by bicycle shall provide identification of the business by requiring every bicycle or bicycle operator to be identified by:

(1) **affixing to the rear of each bicycle, bicycle seat or both sides of the delivery basket, a metal plastic or other sign of a type** approved by the police commissioner, **with the name of the business and a three digit identification number** which identifies the bicycle operator in lettering and numerals so as to be plainly readable at a distance of not less than ten feet and maintaining same in good condition thereon; and

(2) by requiring each bicycle operator to **wear a jacket, vest, or other wearing apparel on the upper part of the cyclist's body** while making deliveries, or otherwise riding a bicycle on behalf of the business, the back of which shall indicate the business name and the bicycle operator's individual identification number in lettering and numerals so as to be plainly readable at a distance of not less than ten feet.

b. Every person, firm, partnership, joint venture, association or corporation engaged in providing a service as authorized herein must issue to every bicycle operator a **numbered identification card** which contain the name, residence

address and photo of the bicycle operator and the name, address and telephone number of the company for whom the bicycle operator is employed. Such identification card must be carried by the bicycle operator while the cyclist is making deliveries, or otherwise riding a bicycle on behalf of the business, and must be produced upon the demand of a police officer or any other law enforcement officer.

c. Every person, firm, partnership, joint venture, association or corporation engaged in providing a service as authorized herein shall maintain in a **log book** to be kept for such purpose, **the name and place of residence address of every employee operating a bicycle, the date of employment and discharge of each person in said service, and every messenger or delivery person's identification number.** The owner of any business engaged in providing a service as authorized in this section shall be responsible for maintaining in the log book a daily trip record in which all entries shall be made legibly in ink and each entry shall be dated and include the bicycle identification number, the operator's name and the name and place of origin and destination for each trip. No entry shall be rewritten either in whole or in part except in such manner as may be provided by regulation of the commissioner; any such unauthorized rewriting shall give rise to a rebuttable presumption of an act of fraud, deceit or misrepresentation. Such log book shall be made available for inspection during regular and usual business hours upon request of an agent of the police commissioner or any police officer or any other person authorized by law.

d. The owner of any business engaged in providing a service as authorized in this section shall file an **annual report** in such form as shall be designated by the police commissioner by rule or regulations. Said report shall include, inter alia, **the number of bicycles it owns and the number and identity of any employees it may retain.** Any business engaged in providing a service as authorized in this section shall be responsible for the compliance with the provisions of this section of any employees it shall retain. Nothing contained in this section shall be construed as applying to persons under the age of sixteen who use a bicycle to deliver daily newspapers or circulars.

e. Except as otherwise provided in subdivision f of this section, **the violation** of any of the provisions of this section, or of any of the rules or regulations that may be promulgated pursuant hereto, shall be a violation triable by a judge of the **criminal court** of the city of New York and upon **conviction thereof shall be punishable by a fine of not less than one hundred dollars nor more than two hundred fifty dollars or imprisonment for not more than fifteen days** or

both such fine and imprisonment. Except as otherwise provided in subdivision f of this section, any person who violates the provisions of this section or of any of the rules or regulations that may be promulgated pursuant hereto, shall be liable for a civil penalty of not less than one hundred dollars nor more than two hundred fifty dollars for each violation, which may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable before such board.

f. **Any person who makes deliveries** or otherwise operates a bicycle on behalf of a business without carrying the identification required by subdivision b of this section or who fails to produce such identification upon demand as required by such subdivision, shall **be guilty of a traffic infraction and upon conviction thereof shall be liable for a fine of not less than twenty-five dollars nor more than fifty dollars.** Such traffic infraction may be adjudicated by such an administrative tribunal as is authorized under article twoA of the vehicle and traffic law.

I got a ticket?!?!?!?

What do you do if you get a ticket?

It's easy to throw away all the tickets that you get, but keep in mind some of the consequences. Your penalty will keep compounding and your driver's license will be suspended. Remember, running through a red light on a bike is treated the same as if you were in a car. That means your **first offense would be \$150, your second \$300 and your third \$750! Plus a \$50 surcharge!**

Here are a few things you can do the next time you get a ticket:

- 1.** If you have the money and want to save time, the easiest thing to do is to fill out and sign the back of the ticket and plead guilty and send your money in to the address in Albany or bring in the money to traffic court.
- 2.** If you have the time, you can plead not guilty by signing the back of your ticket and sending it in to Albany within 15 days of the violation date. You will get something in the mail about a court date. If you don't go, you will be automatically be found guilty. But, if the traffic cop doesn't show up, then you will be found innocent. When you go to court, have a well reasoned case. Talk about safety issues, inequity of the law and try to be nice!
- 3.** If you get a ticket for not having a bell, brakes, or reflectors on your bike, you actually have 24 hours to get these things on your bike. Bring it to your officer's precinct and your ticket will be forgotten.
- 4.** You can also pay for a traffic lawyer if your fines are really huge and you have a lot of summonses to fight. It will cost you about \$200.

If you need to postpone a hearing:

Call (718) 488-5710 at least one day before your scheduled hearing date, or mail your request to the Albany address on the back of your ticket at least ten days before your scheduled hearing date.

And in case you haven't been there before:

Manhattan South

Traffic Violations Bureau
19 Rector St., 2nd floor

Manhattan North

159 E. 125th St., 3rd floor

Office Hours Monday to Wednesday & Friday 8:30 A.M. to 4:00 P.M. and Thursday 8:30 A.M. to 6:00 P.M.

First aid for the everyday road warrior

Cuts:

- Cleanse the area with soap and warm water, washing away any dirt and gravel.
- Apply direct pressure to wound until the bleeding stops. If there is a lot of bleeding, elevate the affected area above your heart level.
- Put a sterile bandage on the wound.
- IF the cut is deep, go see a doctor.

Soft tissue injuries are those that affect the joints and muscles of the limbs. Examples of these include sprains, strains, some bruises and dislocations.

The treatment for these types of injuries are called **RICE therapy**:

R: Rest the injured part

I: Ice to reduce swelling and reduce pain. Ice should be placed for a maximum of 10 minutes and can be re-applied when the area becomes warm again. Don't apply the ice directly to the skin because it might cause tissue damage. Put a piece of cloth between the ice pack and skin.

C: Compression of the area with an elastic compression bandage.

E: Elevation of the area above your heart level.

Sprains:

- Sudden pain in the joint
- Loss of power and ability to bear weight
- Bruising
- Swelling
- Area becomes tender and painful to the touch

Sprains happen with the over-extension of a joint, usually with partial rupture to the ligaments. **RICE**, see a doctor.

Strains:

- Pain, getting worse when you move more
- You can hear a crack because the tendon tears from the bone
- Tenderness and discomfort when you bear weight
- Swelling

Strains happen when there is over stretching of major muscles of the limb. Muscles are attached to the bones by tendons, which tear if a muscle is forced to stretch excessively. **RICE**, avoid stretching the injured limb, avoid massaging the injured limb.

Bruising

- Pain and tenderness
- Swelling and discoloration

Bruises (or contusions) is bleeding by damaged blood vessels beneath the surface to the skin. **RICE**, after four hours of rest, gently exercise the limb.

Drugs

Ibuprofen is an anti-inflammatory and will dramatically reduce swelling after an injury. You can take it for at least 48 hours after your injury, and up to four times a day. Follow the directions on the bottle. It also has the added bonus of being a pain reliever.

Arnica montana is a homeopathic medicine that works really well to help reduce bruising and swelling. It dramatically shortens the recovery period after physical trauma. It comes in a gel and you can buy it at a GNC store or at any health food store. It also comes as a salve or oil in **Arnica Hypercum**. Do not apply to an open wound.

When riding with a friend and they get into an accident:

1. **Secure the victim's head and neck.** Never take the victim's helmet off. This is important because in bicycle accidents, 80% of deaths happen because of head and neck injuries. Don't move the person until a medical professional clears them. Don't move the victim.

2. **ABC's: Air management, Breathing and Circulation.** Are they breathing and talking? If yes, then great! If not, then you need to know CPR to revive them. Circulation- are they bleeding? Gently touch their limbs for signs of wetness and blood.

3. **Communication.** You need to talk to the victim to assess their mental status. Concussions are a pretty common injury for cyclists.

Ask the victim the following questions and tell them not to move their head when they are talking:

- Does your neck and head hurt? (if it does, don't do anything else)
- Did you black out?
- Where do you hurt?
- What happened?
- What day is it/ who is the president? (if they do not know, then their mental status is pretty bad)

Record all your answers and tell them to emergency personnel. Tell them if there was any change in mental status, if the victim throws up or exhibits any other reactions. These actions could mean the difference between life and death, permanent brain damage or paralysis.

Your rights as an employee

Funnily enough in our industry, the first question you have to ask when it comes to your rights—worker’s compensation, disability, etc.—is, am I an employee of my company?

Independent Contractor or Employee?

Independent contractors (ICs) file a 1099 tax form and do not get taxes taken out of their paychecks. Employees fill out a W-2 form and get taxes taken out of their paychecks.

Why is this important?

Companies who have messengers classified as ICs don’t have to pay federal, state and social security (FICA) taxes, or pay unemployment or worker’s compensation insurance. ICs are also not protected under the National Labor Relations Board (NLRB), the governing body that oversees labor organizing. In San Francisco, where a few messenger companies are actually unionized, some of the messenger bosses actually converted their employees to IC status so that their workers would be unable to organize.

But, am I mis-classified?

If you are a true IC, you are basically your own boss. The company that you work for is not your boss, but your client. Your working agreement is supposed to be on a temporary basis, not a permanent one. You should be able to make your services available to other companies in the free market. Companies that employ ICs should not use those people for the key services they provide. For all these reasons, most independent contractor messengers are misclassified. If you want to contest your status because of worker’s compensation, etc. you can fill out a form called SS-8 from the IRS from <http://www.irs.gov/pub/irs-pdf/fss8.pdf>

Or you can go to:

290 Broadway

or 110 W. 44th St/

Both offices have the same phone number: 212-436-1000

And are open Mon-Fri 8:30am-4:30pm.

Additionally, since most bike messengers are classified as employees, the state would most likely classify you as an employee, unless your company has really gone out of its way to insure that you are truly independent.

Recently the Messenger Courier Association of America (MCAA) released what it believes should be the standards for legitimate IC status. Here is their nine item test:

1. All independent contractors must be classified as vendors.
2. All vendors must have commercial insurance.
3. All vendors must have operating authority, as required by state and local regulations.
4. All vendors must have a DBA in place with a current valid mailing address.
5. Companies must have a clear-cut billing and payment process.
6. Companies must have a standard and consistent communication plan.
7. Vendor must have a true risk of profit and/or loss.
8. Vendor must assume full responsibility for the well-being of the cargo; damaged or lost shipment cost must be borne by the vendor.
9. Vendor must submit all rate quotes in writing in the form of a rate chart and clearly state that all cost and expense for the performance of the service requested will be the responsibility of the vendor.

The article from which this information came from can be found at:

<http://www.messmedia.org/0405-battleground.html>

Organizing in the workplace

A lot of the rights to organizing at work come from the National Labor Relations Act (NLRA), otherwise known as the Wagner act. This act was enacted in 1935 by Congress as a result of the militant union organizing of the era. Before this act, workers were free to be spied on, blacklisted, interrogated and disciplined if they were involved in union activity. The governing body of this act is called the National Labor Relations Board (NLRB). This is the board where the NYBMA would file a report if your boss violates any of these regulations. It is also the board that is in charge of union cards and elections.

What are some activities that are protected under this act?

- You have the right to organize. Any group of workers may organize or help organize a union, except managers and security guards. (security guards can organize their own union but they cannot be a part of one with other employees).
- Workers have the right to strike.

- You have the right to pass out literature during non work times in non work areas.

- Concerted activities for the purpose of collective bargaining or other mutual aid and protection – such as grievances, on the job protests, picketing and strikes are also protected.

What your boss cannot do under the Wagner Act:

- Threaten to fire a worker for union activity.
- Threaten a worker in any way implicitly or explicitly, because of union activities. This can include demotions, reprimands, loss of runs. etc.
- Ask workers about union activities.
- Threaten cuts in pay or benefits.
- Promise increases in pay or benefits, beyond those normally scheduled.
- Spy on union activity.
- Dominate the union in any way.

What are some illegal union activities:

- Barring employees from entering place of work
- Acts of force against workers
- Threats against workers

Undocumented workers rights

There are a number of undocumented workers in the bike messenger industry. Contrary to what most people think, undocumented workers do have rights and account for a lot of the labor organizing that is happening in the country right now. In fact 17% of undocumented workers are union members. This number doesn't even take into account independent associations like the Texas Farm workers Union, the CASA—the General Brotherhood of Workers and Farm Labor Organizing Committee—all of which represent immigrant workers.

Even though it is unlawful for an employer to knowingly hire a worker who is undocumented, undocumented workers still have many of the same rights as documented workers.

If you are undocumented, you have:

- The right to organize—all the rights listed above from the Wagner Act apply to you.
- The right to get paid—including overtime and minimum wage
- The right to be free from discrimination
- The right to be safe on the job
- The right to remain silent: After you have been hired, if your boss or someone else asks about your immigration status you don't have to say anything.

- The right to file for worker's compensation and disability.
- The right to file under no fault law and small claims court if you get into an accident.

However, you do not have the right to receive back pay. This means that if your boss fires you for organizing activity—which is illegal even if you are undocumented, you do not have the right to sue for back pay—the pay you would have theoretically received had you been working.

Other things to know as an undocumented worker:

The I-9 form or the Employment Eligibility Verification Form is used for all employers so that they do not knowingly hire someone who is undocumented. Once you have filled this document out, you DO NOT have to show any more documents if you are working for the same employer.

- Your employer cannot force you to re-verify your documents just because you are an immigrant or appear “foreign.”
- Your employer cannot keep your original documents.
- You only need to re-verify if: your original documents are expired or about to expire, if the employer has been audited by the INS and said that there were problems with documents, if your boss learns that you are not work authorized, if your boss rehires you and wants to see if you are still eligible to work.

Social security no match letters are sent by the Social Security Administration to make sure its records and databases are accurate. They need to make sure that their records are accurate to decide if an employee can receive social security benefits and how much it should be. You should not have to re-verify your documents to your boss if they receive a no-match letter. Your boss also cannot fire you, retaliate or discriminate against you in any way for this reason.

If your boss receives a no-match letter, you should:

- Ask for a copy of the letter.
- If you can correct the information, you can provide it to your boss.
- You should also speak to an immigrant advocate to help you. If you would like to speak to someone about this and other immigration issues, please contact a reliable and safe group that we have been working with called:

The New York Immigration Coalition

275 7th Ave

9th Floor

You can speak with Jackie Vimo directly at:

(212) 627-2227 x 239

She can also give you: referrals, immigration and worker information and she also speaks Spanish and French.

Minimum wage and overtime law

Basically, you are supposed to get at least \$5.15/ hour at your job. You are also supposed to get 1-1/2 times your regular rate when you work over 40 hours. But here is the poster that your boss is supposed to post in the office.
<http://www.labor.state.ny.us/pdf/1s207.pdf>

George E. Pataki-Governor

Linda Angello-Commissioner of Labor

STATE OF NEW YORK DEPARTMENT OF LABOR ATTENTION EMPLOYEES MINIMUM WAGE INFORMATION EFFECTIVE 3/31/00

BASIC HOURLY RATE

\$5.15 per hour

NYS MINIMUM WAGE INCREASE

The New York State minimum wage has increased to \$5.15 per hour as of March 31, 2000, and will be linked to the federal minimum wage. Any increase in the federal wage will result in an increase in the state's minimum wage.

Overtime Rate

For most occupations, 1-1/2 times the employees regular rate for working over 40 hours in the week. For residential employees, overtime rate applies after 44 hours.

Tips

A specified allowance may be credited towards the minimum wage for tips earned.

Meals and Lodging

A specified credit may be granted towards the minimum wage for meals and/or lodging provided by the employer.

Federal Law

Employees covered under the Federal Fair Labor Standards Act must be paid in accordance with State law, and also in accordance with higher Federal requirements where applicable.

Other Wage Requirements

A specified amount must be paid in addition to the minimum wage for the maintenance of required uniforms. There are provisions for other supplemental wages in New York State Industry wage orders. These may include a part-time rate, daily call-in pay, and a rate for split shift or spread of hours. Whether a particular supplemental wage is applicable depends on the provisions of the industry wage order covering the employment.

For additional information

or to file a complaint...

Write or call the Department of Labor, Division of Labor Standards at one of the offices listed below.

ALBANY 12240

The Gov. W. Averell Harriman
State Office Building Campus
(518) 457-2730

BINGHAMTON 13901

44 Hawley Street
(607) 721-8014

BUFFALO 14202

65 Court Street
(716) 847-7141

GARDEN CITY 11530

400 Oak Street
(516) 794-8195

NEW YORK 10014-0675

Mailing Address: PO Box 675
Office Location: 345 Hudson Street
(212) 352-6700

ROCHESTER 14607 (Subdistrict)

109 S. Union Street
(716) 258-4550

SYRACUSE 13202

333 E. Washington Street
(315) 428-4057

WHITE PLAINS 10605

120 Bloomingdale Road
(914) 997-9521

DOL WEBSITE HOMEPAGE

<http://www.labor.state.ny.us>
LS-207 (12/02)

Join us!

What the NYBMA can offer you:

We put this manual together to help messengers become empowered with more information about their working conditions. Our industry is plagued with sub-par conditions that have been touched upon in this manual—accidents uncovered by health insurance, companies reluctant to pay for worker’s compensation, mis-classifying employees as independent contractors, targeting messengers for traffic tickets and the number-one complaint of every messenger: RATES.

As you can see, these issues are daunting, but their difficulties can be eased through the help of the NYBMA. If you join us, we can help refer you to services like AFLAC’s accident insurance. Additionally, the NYBMA has an **accident fund** as a last resort for working messengers.

But there are also larger, systemic issues that we need your help to address—we need you to come and help us make your issues our issues, for we cannot solve our shared problems in isolation. We can talk about these issues by ourselves, but we will have more power if we stand together.

Come to a NYBMA meeting and ORGANIZE. Plug in to one of our campaigns or bring together co-workers from your company to address the issues that you face there. We are here to help you because we are in this together.

Come to a NYBMA meeting and fill out a survey and questionnaire about what issues are most important to you. You can whine and complain about your problems at work to deaf ears, or you can come to a meeting and do something about it!

We meet on the last Thursday of every month, but the meeting’s location is changing. Check out our website at www.nybma.com.

We are also open to suggestions about how to make this manual, and this organization, better! Please contact [sarinya@riseup.net](mailto:sarina@riseup.net) for any rants, complaints or, preferably, compliments.

JOIN US and WE’LL SEE YOU ON THE STREETS!

**ONE LOVE,
The New York Bike Messenger Association**