



RIDESHARE ACCIDENTS

A QUICK GUIDE FOR THIRD PARTIES



Rideshares are on the rise and rideshare operators are doing very little to ensure the safety of the general public. As with other motorists and the passengers who use rideshares to get around cities in Kansas, pedestrians and cyclists are equally at risk of injury or death. However, when you are involved in an accident involving an Uber or Lyft driver, there are multiple layers of liability that you will have to navigate.

PEDESTRIAN & CYCLIST RIGHTS

Pedestrians and cyclists have a right of protection on public sidewalks, in bike lanes, and within crosswalks. These rights are extended within emergency lanes, parking lots, and other areas where a pedestrian has the right of way. When a rideshare driver violates your right of way in these areas, you are typically considered the victim and have full rights to damages owed to you.

RIDESHARE LIABILITY

As with accidents involving passengers and other drivers, the rideshare operator has a duty of care to pedestrians and cyclists. This duty includes ensuring that only qualified drivers offer rides via their service. When a driver for Uber, Lyft, etc. causes an accident, the rideshare operator can be held liable for the accident.

Pedestrians and cyclists who are injured by a rideshare driver can pursue claims against the rideshare operator for negligent hiring practices, negligent retention of the driver, and failing to properly train or supervise the driver.

However, injured pedestrians and cyclists are limited in the damages they can collect. This is because most rideshare operators classify their drivers as independent contractors. This means that the company maintains loose control over their actions and operations. Because of this, accident claims against Uber in Kansas are limited to a maximum of \$1 million in compensation under Uber's liability coverage.

RIDESHARE DRIVER LIABILITY IN KANSAS

It may be possible for you to pursue personal injury torts from the driver. For instance, if the driver was engaged in illegal or reckless driving behaviors when the accident occurred. These types of behaviors include, but are not limited to:

- Driving while drowsy
- Driving while under the influence of alcohol or drugs
- Driving too fast for conditions
- Speeding
- Tailgating
- Texting while driving
- Evading law enforcement
- Engaging in aggressive driving behaviors

While a driver may be liable for causing the accident, pedestrians and cyclists who are injured by a rideshare driver may have their claims denied by the driver's insurance company. This occurs because few drivers are "driving for hire" on personal insurance policies.

Essentially, the driver's decision not to carry commercial vehicle insurance voids their personal insurance coverage. It is estimated that less than half of all rideshare drivers carry sufficient levels of coverage, and that as many as one-quarter do not inform their personal insurers that they are participating in rideshare programs.

PERIODS OF LIABILITY

Uber drivers are covered under a 3-part insurance policy. The coverage provided depends on the drivers activity at the time of the accident. These "periods" are defined as:

- Period 1. The Uber app is on and drivers are awaiting passengers.
- Period 2. The app is on and the driver is en route to pick up a passenger.
- Period 3. The Uber or Lyft driver is transporting a passenger.

During Period 1, Uber does not provide comprehensive or collision coverage, but it does cover up to \$50,000 in bodily injury per person (up to \$100,000) and up to \$25,000 in property damage.

During Periods 2 and 3, Uber extends \$1 million in liability coverage. However, before this coverage can be claimed, the driver's personal insurer must deny the claim.

PERSONAL INJURY PROTECTION (PIP) AND PRIVATE HEALTH INSURANCE

Pedestrians and cyclists who have automobile insurance can file PIP claims with their insurance provider in Kansas. This coverage covers the cost of medical bills, rehabilitative care, lost wages, funeral expenses, etc. If you have PIP coverage, you should exhaust this first before filing a claim with your health insurer.

It is common for the health insurance provider to deny coverage until PIP coverage is exhausted. Further, you should be aware that many health insurance providers in Kansas insert a repayment clause within their policies. This clause requires injured pedestrians, cyclists, etc., to repay the health insurer when and if they collect compensation in a personal injury claim.

GATHERING EVIDENCE

Pedestrians and cyclists should thoroughly document the accident and the injuries they have sustained. When you are involved in any accident involving a rideshare driver, you should document the scene with photographs and video evidence. You should also receive prompt medical attention, copies of police reports, and collect the names and contact information of witnesses.

It is also advisable to keep an accident diary. You should record the extent of your injuries, the expenses you have incurred, and the overall impact the accident has had on your work and daily life.



BRAD PISTOTNIK LAW

If you were involved in an accident with a rideshare vehicle, it's important for you to guard your rights with the help of an experienced attorney. Brad Pistotnik Law is a Wichita-based law firm that has been fighting on behalf of individuals in Kansas and surrounding states since 1981, and has extensive experience in rideshare accidents and personal injury law.

Call us toll free at **800-241-BRAD (2723)**,
or locally at **316-684-4400**.

You can also visit us online at **bradpistotniklaw.com**.

