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# LAVIS LAW FIRM



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## Dealing With Your Auto Insurer About Property Damage After an Accident

An auto accident is inconvenient enough without dealing with auto insurance hassles. It is important to know your rights as an auto insurance policyholder to ensure you get back on the road safely and quickly.

### Document, Document, Document!

Make sure you obtain a traffic accident report following an auto accident and notify your insurance company of the accident. Keep all accident related documents and witness contact information safe.

### You Pick Where to Fix

If your car is damaged in an accident, you have the right to pick your repair shop. Many insurance companies may try to refer you to an associated auto body shop. You are not obligated to follow their recommendation and there is rarely any benefit to doing so. Feel free to take your car to the mechanic or body shop you trust. In Louisiana it is illegal for insurance companies to require you to use a certain repair shop.

### You should expect speedy settlement.

The insurance company is required to settle your property damage claim within 30 days. If your claim is not settled in 30 days, the insurance company may have to pay a penalty.

### If your car is determined to be totaled, you are entitled to the market value of your car at the time of the accident.

Keep in mind this amount may not be equal to the amount you paid for your car depending on the mileage, quality, and depreciation of your vehicle.

### Be careful with replacement parts!

Some insurance companies may try to replace vehicle parts with used, refurbished, or non-original equipment manufacturer aftermarket crash parts (called non-OEMs). Non-OEMs are replacement auto parts not made by the manufacturer of the motor vehicle and are the subject of safety and quality debate. You are entitled to have

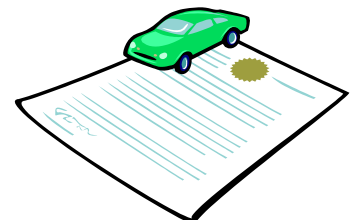
your vehicle restored to the quality and condition it was in prior to the accident. In Louisiana there are specific law, *LSA-R.S. 51:2424*, regarding replacement auto parts which state that:

*A. No insurer shall specify the use of non-OEM aftermarket crash parts in the repair of an insured's motor vehicle, nor shall a repair facility or installer use non-OEM parts to repair a vehicle, unless the insured is so advised in writing.*

*B. In all instances where non-OEM aftermarket crash parts are intended for use by an insurer:*

*(1) The written estimate shall clearly identify each such part.*

*(2) A disclosure document containing the following information in ten point type or larger type shall appear on or be attached to the insured's copy of the estimate: "This estimate has been prepared based on the use of crash parts supplied by a source other than the manufacturer of your motor vehicle. Warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle."*





## What Every Motorist Should Know About Sobriety Checkpoints

Police departments are increasingly using sobriety checkpoints to deter motorists from impaired driving and catch drunk drivers. Here are some things you should know about sobriety checkpoints in Louisiana:

### Q: Are DUI (Driving Under the Influence) checkpoints legal?

A: The U.S. Supreme Court has determined that sobriety checkpoints are legal. The Louisiana State Supreme Court has created a number of regulations that dictate how sobriety checkpoints are set up and conducted. Sobriety checkpoints must be carried out according to strict protocol. For example:

- It is illegal to target drivers due to factors such as age, race, or sex.
- Officers must follow a plan for stopping cars at a sobriety checkpoint such as stopping every third car.
- Officers must carry out checkpoints in accordance with all state laws at minimal inconvenience to motorists.
- Drivers do not have to consent to a search of their person or vehicle at a sobriety checkpoint.
- Drivers do not have to consent to any Field Sobriety Tests such as walking a line or standing on one foot at a sobriety checkpoint.

### Q: What should I expect at a checkpoint?

A:

- You must pull over if signaled to do so at a checkpoint.
- You must present your license and registration if asked to do so.
- If asked, "Have you been drinking tonight" you do not have to answer.
- Police cannot force you to do anything to incriminate yourself, although there may be penalties for

failing to submit to chemical tests.

- You have the right to remain silent. Anything you say at a sobriety checkpoint could be used against you later.
- If you are arrested, police must read you your Miranda rights prior to arrest.

### Q: What if I refuse to take a breathalyzer?

A: If an officer at a sobriety checkpoint suspects you have been drinking, he may ask you to pull over and take a breathalyzer test. While you can refuse to take the test, your first refusal will result in the suspension of your driver's license for 180 days. Beginning in September 2011, Louisiana motorists who refuse to take a breathalyzer test on a first offense DUI can have their driver's license suspended for one year.

### Q: Do I have to get out of my vehicle if an officer orders me to do so?

A: Yes, you must exit your vehicle if requested by an officer. If you refuse, you may be arrested. Exit your vehicle slowly, stand up straight, and act normally and courteously.

### Q: Can I find out when and where a checkpoint will occur?

A: Yes! The local police precinct is required by law to provide advance public notification of DUI checkpoints occurring in their jurisdiction. You can find checkpoint advisories on police precinct websites at <http://lsp.org/news.html>.

## Louisiana Penalties for DUI

### First DUI Conviction may include:

- Maximum six months in jail
- \$300- \$1,000 fine
- Up to 2-year driver's license suspension
- Installation of ignition interlock device

### Second DUI Conviction may include:

- 30 days-6 months in jail
- \$750- \$1,000 fine
- 1-year driver's license suspension
- Installation of ignition interlock device

### Third DUI Conviction may include:

- Charged as a felony

- 1 -5 years in jail
- \$2,000 fine
- 3-year driver's license suspension
- Seizure and sale of vehicle
- Installation of ignition interlock device
- 4 weeks inpatient & 12 months outpatient alcohol/drug treatment program

If you are arrested for a DUI or have further questions about your legal rights at a checkpoint, contact an experienced attorney.

## Hotel Cleaners at High Risk for Work-Injury

The results of a National Institute for Occupational Safety and Health (NIOSH) study on workplace hazards by industry suggest hotel cleaners may be at high risk for job related injury and illness. The CDC (Centers for Disease Control) estimates that around 1.8 million people are currently employed by the hotel/lodging industry, including at least 400,000 hotel room cleaners. Of these, the majority of hotel room cleaners are female and many are immigrants.

According to the NIOSH report, the repetitive motions involved in hotel cleaning bathrooms coupled with the long work hours can lead to a variety of physical and psychological ailments.

Hazards most likely to affect hotel cleaners include: accidental slips, trips and falls, injuries from bending, pushing carts, using cleaning equipment, and making beds; Respiratory, dermal and carcinogenic hazards from chemicals in cleaning products, mold and microbial contaminants and infectious agents; and occupational stress due to heavy workloads, lack of adequate supplies, job insecurity, low pay and discrimination.

The NIOSH report and list of recommendations to improve worker safety and health (Publication No. 2011\_194) is available at [http://www.cdc.gov/niosh/pubs/all\\_date\\_desc.html](http://www.cdc.gov/niosh/pubs/all_date_desc.html)

## New DHH Website to Empower LA Consumers & Fight Food-borne Illness

The Louisiana Department of Health and Human Services (DHHS) has launched a new website to empower Louisiana restaurant-goers and improve food safety. The EatSafe website ([www.eatsafe.la.gov](http://www.eatsafe.la.gov)) provides food safety information as well as access to a comprehensive database of health inspection records for thousands of food establishments across the state. DHH Secretary Bruce Greenstein has long campaigned for greater transparency of critical health information and described food-borne illness as the "most preventable kind of illness".

"Restaurant patrons must have confidence in the sanitary conditions of our food establishments," Greenstein stated prior to the website's inauguration. "Our new EatSafe site empowers residents to make informed decisions about where they eat and to become partners with us and our state's restaurants to help prevent food-borne illness."

Prior to the website's launch, consumers had to request restaurant inspection reports through local health departments and view reports in person. Although local health departments will continue to provide copies of inspection reports to residents, EatSafe allows the consumer to access comprehensive health information at the click of a mouse.

Information available through the website includes:

- tips for healthy eating
- food recall information
- tips on avoiding foodborne illness
- restaurant sanitary inspection reports
- critical and non-critical sanitary violations

The DHHS's Food Safety Certification Program is responsible for monitoring thousands of Louisiana retail food establishments including restaurants, bars, seasonal stands, and residential facilities

including daycare and nursing facilities. EatSafe will be updated daily to provide reliable information on the approximately 34,000 retail food establishments under the DHH's jurisdiction.

Visit the website at [www.eatsafe.la.gov](http://www.eatsafe.la.gov). The DHH invites consumer reviews of the new website.

### Get Paid to Save Louisiana's START Savings Plan Helps Pay Cost of College

The cost of a college education in the United States is at an all-time high. According to the National Bureau of Educational Statistics, the average annual cost of full-time undergraduate tuition, room, and board for the 2009-2010 year was approximately \$12,804 per year at public institutions and a hefty \$32,184 at private institutions. The price of undergraduate tuition, room, and board has increased by approximately 37 percent at public institutions and 25 percent at private institutions in the last ten years, making a college education a serious financial burden for most families.

The State of Louisiana's Student Tuition Assistance and Revenue Trust Program or "START Saving Program," is a unique program administered through the Louisiana Office of Student Financial Assistance with the goal of assisting families with climbing educational costs.

Deposits made to START Savings are managed and invested through the public Louisiana Tuition Trust Authority.

There are 10 investment funds Account Owners can choose from ranging from conservative investments to very aggressive investment funds.

Money in START accounts can be used to pay Qualified Educational Expenses of the account Beneficiary at any state-approved training schools in Louisiana or any in or out-of-state college or university.

Qualified educational expenses include expenses such as tuition, room, board, books, and fines associated with college enrollment.

As an incentive to save for college, the State of Louisiana will match a percentage of the deposits made to a START account during the calendar year. The percentage of fund matching varies based on the category of the account and the Account Owner's federal adjusted gross income.

For more information on START Savings, Check with your CPA or Financial Advisor. Visit <http://www.startsaving.la.gov/> to start an online application and learn more details.



#### Meet Charles E. Lavis, Jr.

Charles Lavis is the founder and managing shareholder of Lavis Law Firm, APLC. He was born in New Orleans in 1965 and has practiced law there for 16 years. Charles represents workers, consumers, homeowners and business owners against insurance companies and corporations. He represents clients in matters involving BP Oil Spill Claims, Job Injuries, Accidents, Products Liability, Hurricane Insurance Claims, Personal Injury, Wrongful Death and Survival Actions, and Insurance Bad Faith. If you have questions, please call Charles at **1-866-558-9151**.

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