



Fairness for Vulnerable Road User



Only four states and the District of Columbia in the United States retain the antiquated and unfair contributory negligence standard.

The Issue

Often referred to as the “one percent” rule, contributory negligence bars a plaintiff’s recovery if they are greater than one percent at fault for the damages. The majority of states have abolished the contributory negligence standard in favor for a more fair comparative negligence scheme.

The District of Columbia’s continued recognition of contributory negligence as a complete defense in a negligence action, when combined with the uneven enforcement of bicycle laws by the District’s police officers and lack of understanding of bicycle laws among the general public (i.e. potential jurors), makes recovery for damages suffered by cyclists injured in collisions with motor vehicles difficult and unpredictable. WABA works diligently to educate cyclists, police officers, and citizens on the proper application of bicycle laws. However misunderstandings still permeate and commonly lead to improper enforcement and conflict.

Legislative Action Needed

To ensure fairness of recovery for injury, to promote fairness in the law, and to modernize the approach of the District of Columbia in the field, the Council should cease recognition of contributory negligence as a complete defense to a tort claim, and should instead move to a more progressive standard based on a model of comparative negligence.

More Information

The Washington Area Bicyclist Association has prepared a briefing memorandum on the issue of contributory negligence. Please contact WABA Advocacy Coordinator Greg Billing at greg@waba.org or 202-518-0524 x212.

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