








# **COMPARATIVE NEGLIGENCE RULES & BI/PD STATUTES OF LIMITATIONS**

*“Advocates For Policyholders in Insurance Coverage Disputes”*

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This survey of state laws is a quick reference guide that should only be used as a starting point in researching the applicable law to a given situation. Depending on the facts of each situation, there may be additional legal authority which impacts the analysis of a particular case.

#### KEY

	50% rule. The plaintiff may recover as long as the plaintiff is not more at fault than the defendant, i.e. if liability is 50-50, plaintiff may recover.
	Pure. The state allows a plaintiff to recover the percentage of damages caused by the defendant, no matter the percentage of fault of the plaintiff.
	See notes per states
	49% rule. Plaintiffs may not recover if the plaintiff him/herself was 50% or more at fault, i.e. if liability is 50-50, plaintiff cannot recover.
	The state has no law regarding comparative negligence

"Comparative negligence" is the legal term for the doctrine in the law of negligence that compares the degree of negligence of the plaintiff and the defendant.

	COMPARATIVE NEGLIGENCE	AUTHORITY	STATUTE OF LIMITATIONS	NOTES
Alabama	No Comparative Negligence		2 years; Ala. Code §6-2-38-Personal Injury v. Property Damage	Contributory negligence standard - <i>Williams v. Delta Intern. Machinery Corp.</i> , 619 So.2d. 1330 (1993)
Alaska	Pure	Alaska Stat. §.09.17.060	2 years; Alaska Stat. §09.10.070	
Arizona	Pure	Ariz. Rev. Stat. §12-2505(A)	2 years; Ariz. Rev. Stat §12-542	
Arkansas	49% Rule	Ark. Code Ann. §16-64-122(b)(1)	3 years; Ark. Code Ann. §16-56-105	
California	Pure	<u>Li v. Yellow Cab</u> , 532 P.2d 1226, 1242-3 (Cal. 1975)	Pers. Injury: 2 years; Cal. Civ. Proc. §335.1 Property Damage: 3 years; Cal. Civ. Proc. §338(c)	
Colorado	49% Rule	Colo. Rev. Stat. §13-21-111(1) and §13-21-111(3)	2 years; Colo. Rev. Stat. §13-80-102	
Connecticut	50% Rule	C.G.S.A. §52-572h(b)	2 years; C.G.S.A. § 52-584	
Delaware	50% Rule	Del. Code. Ann. Tit. 10 §8132	Pers. Injury: 2 years; Del. Code Ann. Tit. 10 §8119 Property Damage: 2 years; Del. Code Ann. Tit. 10 §8107	No statute of limitations explicitly on negligence, but 2 year period for personal injury claims.
DC	No Comparative Negligence	D.C. Stat. §12-30	Pers. Injury: 3 years Property Damage: 3 years	Contributory negligence standard - <i>Sinai v. Polinger Co.</i> , 498 A.2d. 520 (1985)
Florida	Pure	Fla. Stat. §768.81(2)	4 years; Fla. Stat. §95.11(3)(a)	No recovery if plaintiff is injured while under the influence of drugs or alcohol and more that 50% at fault. Fla. Stat. §768.32(2).
Georgia	49% Rule	Ga. Code Ann. §51-12-33	Pers. Injury: 2 years; Ga. Code Ann. §9-3-33, §18-2(c) Property Damage: 4 years; Ga Code Ann. §9-3-31	
Hawaii	50% Rule	Haw. Rev Stat §663-31(a)	2 years; Haw. Rev. Stat. §657-7	

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Idaho	49% Rule	Idaho Code §6-801	Pers. Injury: 2 years; Idaho Code §5-219(4) Property Damage: 3 years; Idaho Code §5-218(3)	
Illinois	50% Rule	735 ILCS 5/2-1116		Held unconstitutional by <i>Best v. Taylor</i> , 689 NE 2d 1057(Ill. 1997); <i>Racjan v. Donald</i> , 807 NE 2d 725 (Ill. App. 2d Dist, 2004); <i>Hurst v. Capital Cities Media</i> , 754 NE 2d 429 (Ill. 5 Dist., 2001) but no legislative action
Indiana	50% Rule	Ind. Code §34-51-2-6, §34-51-2-7(b)(2), §34-51-2-8(b)(2)	2 years; Ind. Code §34-11-2-4	
Iowa	50% Rule	Iowa Code §668.3(1)(a)	Pers. Injury: 2 years; Iowa Code §614.1(2) Property Damage: 5 years; 614.14(4)	
Kansas	49% Rule	Kan. Stat. Ann. §60-258a(a)	2 years; Kan. Stat. Ann. §60-513(a)(4)	
Kentucky	Pure	<i>Hilen v. Hays</i> , 673 S.W.2d 713, 719 (Ky. 1984)	Pers. Injury: 1 year; Ky. Stat. Ann. §413.140(1)(a) Property Damage: 2 years; Ky. Stat. Ann. §413.125	
Louisiana	Pure	La. Civ. Code §2323A	1 year; La. Civ. Code Ann. Art. 3492	
Maine	49% Rule	Me. Rev. Stat. Ann. Tit., 14 §156	Me. Rev Stat Ann. Tit. 14 §752	
Maryland	No Comparative Negligence		3 years West Ann. Code of Md. §5-101	Contributory negligence standard - <i>Franklin v. Morrison</i> , 350 Md. 144 (1998)
Massachusetts	50% Rule	Mass. Gen. Laws Ch. 231 §85	3 years; Mass. Gen. Laws Ch. 260 §2A	
Michigan	Pure	Mich. Comp. Laws §600.2959	3 years; Mich. Comp. Laws Ann. §600.5805(10)	
Minnesota	50% Rule	Minn. Stat §604.01 subdivision 1	6 years; Minn. Stat §541.05 subd 1 (4), (5)	

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Mississippi	Pure	Miss. Code Ann. §11-7-15	3 years; Miss. Code Ann. §15-1-49(1)	
Missouri	49% Rule	Mo. Rev. Stat. §537.067	5 years; Mo. Rev. Stat. §516.120(4)	
Montana	50% Rule	Mont. Code Ann. §27-1-702	Pers.. Injury: 3 years; Mont Code Ann. §27-2204(1) Property Damage: 2 years; Mont Code Ann. §27-2-207	
Nebraska	49% Rule	Neb. Rev. Stat. §25-21, 185.09	4 years; Neb. Rev. Stat. §25-207	
Nevada	50% Rule	Nev. Rev. Stat. §41.141(2)(a)	Pers. Injury: 2 years; Nev. Rev. Stat. §11.190 Property Damage: 3years Nev. Rev. Stat. 11.90	
New Hampshire	50% Rule	N.H. Rev. Stat. Ann.§507:7-d	3 years; N.H. Rev Stat. Ann. §508:8	
New Jersey	50% Rule	N.J. Stat. Ann. §2A:15-5.1	Pers. Injury: 2 years; N.J. Stat. Ann. §2A:14-2 Property Damage: 6 years; N.J. Stat. Ann. §2A14-1	
New Mexico	Pure	N.M. Stat. Ann. §41-3A-1(B)	Pers. Injury: 3 years; N.M. Stat Ann. §37-1-8 Property Damage: 4years; N.M. Stat. Ann. §37-1-4	
New York	Pure	N.Y. C.P.L.R. §1411	3 years; N.Y. C.P.L.R. §214(4)&(5)	
North Carolina	No Comparative Negligence		3 years; N.C. G.S.A. §1-52	Contributory negligence standard - <i>Johnson v. Atlantic CoastLine R.R.</i> , 184 N.C. 101 (1922)
North Dakota	49% Rule	N.D. Cent. Code §32-03.2-02	6 years; N.D. Cent. Code §28-01-16(4)&(5)	
Ohio	50% Rule	Ohio Rev. Code Ann.§2315.35	2 years; Ohio Rev. Code Ann. §2305.10(A)	

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Oklahoma	50% Rule	Okla. Stat. Tit. 23 §13	2 years; Okla. Stat. Tit. 12 §95(A)(3)	
Oregon	50% Rule	Or. Rev. Stat. §31.600	2 years; Or. Rev. Stat. §12.110	
Pennsylvania	50% Rule	42 Pa. Stat. Ann. §7102	2 years; 42 Pa. Stat. Ann. §5524(2)&(3)	
Rhode Island	Pure	RI. Gen Laws §9-20-4	Pers. Injury: RI. Gen. Laws §9-1-14(b) Property Damage: 10 years; RI. Gen. Laws §9-1-13(a)	
South Carolina	50% Rule	S.C. Code §15-38-15 and <i>Nelson v. Concrete Supply Co.</i> , 399 S.E. 2d 783, 784 (S.C., 1991)	3 years; S.C. Code §15-3-530(4)&(5)	
South Dakota	Slight vs. Gross Rule	S.D. Codified Laws §20-9-2	Pers. Injury: 3 years; S.D. Codified Laws §15-2-14(3) Property Damage: 6 years; S.D. Codified Laws §15-2-13(4)	"The fact that the plaintiff may have been guilty of contributory negligence does not bar a recovery when the contributory negligence of the plaintiff was slight in comparison with the negligence of the defendant, but in such case, the damages shall be reduced in proportion to the amount of plaintiff's contributory negligence."
Tennessee	49% Rule	<i>McIntyre v. Balentine</i> , 883 S.W. 2d 52, 57 (Tenn. 1992)	Pers. Injury: 1 year; Tenn. Code Ann. §28-3-104(a)(1) Property Damage: 3 years §28-3-105(1)	
Texas	50% Rule	Tex. Civ. Prac. & Rem. Code Ann. §33.001	2 years, Tex. Civ. & Rem. Code Ann. §16.003(a)	
Utah	49% Rule	Utah Code Ann. §78-27-38(2)	Pers. Injury: 4 years; Utah Code Ann. § 78-12-26(2) Property Damage: 3 years; Utah Code Ann. §78-12-26(2)	

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<b>Vermont</b>	50% Rule	Vt. Stat. Ann. Tit. 12, §1036	3 years; Vt. Stat. Ann. Tit. 12 §512(4)&(5)	
<b>Virginia</b>	No Comparative Negligence			Contributory negligence standard - <i>City of Bedford v. Zimmerman</i> , 262 Va. 81 (2001)
<b>Washington</b>	Pure	Wash. Rev. Code §4.22005	3 years; Wash. Rev. Code §4.16.080(2)	In personal injury or wrongful death case, fact that the person injured or killed was intoxicated or under influence of drugs is defense if that condition was proximate cause of injury or death and person was more than 50% at fault. Wash. Rev. Code §5.40.060(1)
<b>West Virginia</b>	49% Rule	<i>Bradley v. Appalachian Power Co.</i> 256 S.E. 2d 879, 885 (W. Va. 1979)	2 years; W.Va. Code §55-2-12(a)&(b)	
<b>Wisconsin</b>	50% Rule	Wis. Stat. §895.045(1)	Pers. Injury: 3 years; Wis. Stat §893.54(1) Property Damage: 6 years; Wis. Stat. §893.52	
<b>Wyoming</b>	50% Rule	Wyo. Stat Ann. 1-1-109(b)	4 years; Wyo. Stat. Ann. §1-3-105(a)(iv)(B)&(C)	

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