

WMCA Opposes Changes in Joint & Several Laws

The WMCA opposes Governor Doyle's budget proposal to radically change the liability laws and make Wisconsin one of the most dangerous places in the nation to do business.

Under current law, a plaintiff may recover damages only if he or she is not more at fault than the person against whom recovery is sought. Furthermore, under current law, a defendant may be jointly and severally liable for all of the damages only if that person's negligence is under 51 percent or more of the total negligence.

The budget provision would change existing law by eliminating the 51% requirement and allowing an injured person to recover damages if that person's negligence is not greater than the combined negligence of all the persons against whom recovery is sought.

In addition, the new provision would provide that any person whose negligence is equal to or greater than the negligence of the person seeking recovery is jointly and severally liable. This means that a person as little as one percent at fault could be liable for 100 percent of the entire damages.

The WMCA opposes these changes because:

- Companies operating commercial motor vehicles for hire are required by federal law to have a minimum of \$750,000 of liability insurance. This makes these companies a perfect candidate for lawsuits that are seeking a "deep pocket".
- Wisconsin's current law (amended in 1995 on a bi-partisan basis) provides that a defendant can only be fully liable for all damages if he or she is 51 percent or more at fault. This change brought fairness and equity in determining if and how someone was injured.
- Fairness means that our system does not create a second victim by forcing a party minimally at fault to be responsible for 100 percent of damages because the person most at fault does not have sufficient resources.
- The joint and several proposal ignores fairness for all but the injured parties—the clients of the plaintiff lawyers.
- Defendants in states with such expansive joint and several liability laws often settle out of court for fear of being saddled with paying the entire judgment even though they are only partially liable—sometimes as little as one percent at fault.

We encourage the Legislature to reject the proposed changes and at a minimum they should be pulled from the state budget bill and be considered as a separate bill.