

---

## DIGEST TABLES

**As a result of the many recommendations of Claim and Loss Officials of insurance companies we include a convenient tabular section very briefly summarizing parts of the following subjects.**

1. - Automobiles
2. - Negligence
3. - Limitation of Time for Commencement of Action
4. - Financial Responsibility Law (Automobiles)

**We invite suggestions which will assist in making this section of greater assistance to insurance claims departments, attorneys and all others interested in a very brief summary of these laws.**

**While the information contained in these tables was obtained from sources believed to be reliable, its accuracy is not guaranteed.**

**A.M. BEST COMPANY**

---



## Automobiles

	Operations		Service of Process Upon Non-Resident Motorists			
	Operator's License Required	Minimum Age	Age Exceptions—Rural Districts, Students, etc.	State Officer Served	Personal Service or Registered Mail to Owner or Operator	Statute
Alabama	Yes	16	Yes*	None	Yes	Code §6-4-20; Rule 4.2(a)(b)
Alaska	Yes	16*	Yes	Comm'r Pub. Safety	Yes	A.S. 09.05.020
Arizona	Yes	16*	Yes	Dir. M.V. Division	Yes	A.R.S. §§28-2326, 28-2327
Arkansas	Yes	16*	Yes	Sec'y of State	Yes	Ark. Code Ann. § 16-58-121
California	Yes	18*	Yes	Director of M.V.	Yes	Vehicle Code 17450, <i>et seq.</i>
Colorado	Yes	16	Yes	None	Yes	C.R.S. §13-1-125; CRCP4
Connecticut	Yes	16	No	Comm'r of M.V.	Yes	C.G.S. 52-62; C.G.S. 14-36
Delaware	Yes	16 -18	Yes	Sec'y of State	Yes	10 Del. C. §3112
District of Columbia	Yes	17**	Yes	Mayor	Yes	Code 13-423-425; 13-431-434; 50-1301.07; 50-1401.01
Florida	Yes	16*	Yes**	Sec'y of State	Yes	F.S. 48.171 & F.S. 48.161
Georgia	Yes	16**	Yes***	Sec'y of State	Yes	§40-12-1 to §40-12-8
Hawaii	Yes	15 yrs & 6 mos*	Yes**	None	Yes***	HRS §634-33, 634-36
Idaho	Yes	15****	Yes	Sec'y of State	Yes	I.C. §49-2421
Illinois	Yes	18*	Yes	Sec'y of State	Yes	625 ILCS 5/10-301
Indiana	Yes	16*	Yes	Sec'y of State	Yes	I.C. 34-33-3-1
Iowa	Yes	18*	Yes	Dir. Dept. Transp.	Yes	§§321.498, 321.501
Kansas	Yes	16	Yes	Sec'y of State	Yes	K.S.A. 60-308, 8-401
Kentucky	Yes	16	Yes*	Sec'y of State	Yes	K.R.S. 188.030
Louisiana	Yes	17**	No	Sec'y of State	Yes	La. Rev. Stat. 13: 3474; 13:3475; 32:401 <i>et seq.</i> ; 13:3475; 32:401 <i>et seq.</i>
Maine	Yes	15†	Yes	Sec'y of State	Yes	29-A MRSA §108
Maryland	Yes	18*	Yes	None	Yes	Md. R. Proc. 2-121 (a)
Massachusetts	Yes	18	Yes*	Registrar of M.V.	Yes	C.90, §3, 3A-D.
Michigan	Yes	18*	Yes	Sec'y of State	Yes	MCL 257.403
Minnesota	Yes	16*	Yes	Comm'r of Public Safety	Yes	§169.09 Subd. 16
Mississippi	Yes	16*	Yes	Sec'y of State	Yes	Code §13-3-63
Missouri	Yes	16	No	Sec'y of State	Yes	§506.210 R.S. Mo. (2004)
Montana	Yes	15	Yes	Sec'y of State	Yes	M.R. Civ. P.4; M.C.A. §25-3-602



## Automobiles

	Operations		Service of Process Upon Non-Resident Motorists			
	Operator's License Required	Minimum Age	Age Exceptions—Rural Districts, Students, etc.	State Officer Served	Personal Service or Registered Mail to Owner or Operator	Statute
Nebraska	Yes	18*	Yes	None	Yes	§25-540
Nevada	Yes	16	Yes	Dir. Dept. M.V.	Yes	NRS 14.070
New Hampshire	Yes	16*	Yes	Dir. Div. of M.V.	Yes	R.S.A. 260:68
New Jersey	Yes	17*	Yes	Dir. Div. of M.V.	Yes	N.J. Stat. Ann. §39:7-2 to 3
New Mexico	Yes	16*	Yes	Sec'y of State	Yes	NMSA 1978 66-5-103
New York	Yes	16	Yes	Sec'y of State	Yes*	N.Y. Veh. & Traf. Law §253
North Carolina	Yes	16*	Yes	Comm'r of M.V.	Yes	G.S. 1-105
North Dakota	Yes	16**	Yes	Dir. Dept. Tran.	Yes	39-01-11 N.D.C.C.
Ohio	Yes	18	Yes	Sec'y of State	Yes	Civ. Rule 4.3; O.R.C. §2703.20
Oklahoma	Yes	16	Yes	None	Yes	Okla. Stat. tit. 12, §2004
Oregon	Yes ORS 807.010	16 ORS 807.060(1)	Yes*	Dept. of Transportation	Yes**	ORCP 7D(4)(a)-(b)
Pennsylvania	Yes	18*	Yes*	None	Yes	Pa.R.C.P. 404 & 42 PA C.S.A. 5323
Rhode Island	Yes	16	No	Director Dept. of Transportation	Yes	G.L. 31-7-6 & (7) (Amended by 42-13-1)
South Carolina	Yes	16*	Yes**	Director of Dept. of Motor Vehicles	Yes	S.C. Code 15-9-370
South Dakota	Yes*	14*	Yes	Sec'y of State	Yes	15-7-(6-8) S.D.C.L.
Tennessee	Yes	14*	Yes	Sec'y of State	Yes	20-2-203 (a)(b)
Texas	Yes	18*	Yes	Chairman State Transp. Comm.	Yes	C.P. & R.C. §§17.062, 17.063
Utah	Yes	16*	Yes	Div. of Corp. and Comm. Code	Yes	U.C.A. §41-8-1
Vermont	Yes	18*	Yes	Comm'r of M.V.	Yes	12 VSA §891-892
Virginia	Yes	16 & 3 mos**	No	Comm'r of M.V.	Yes	8.01-307 <i>et seq.</i> 46.2-601 Code of Va.
Washington	Yes	16	Yes	Sec'y of State	Yes	RCW 46.64.040
West Virginia	Yes	18	Yes	Sec'y of State	No	W. Va. Code §56-3-31
Wisconsin	Yes	18*	Yes	Sec'y of Transportation	Yes	Wis. Stat. 345.09
Wyoming	Yes	16*	Yes	Sec'y of State	Yes	1-6-301 W.S.



## Automobiles

	Owner Not in Automobile Liable for Negligence if Operated With His Consent				Owner Liable to Guest		
	Regardless of Agency or Purpose	Under Family Purpose Doctrine	If Not in Course of Employment or on Owner's Business	Statute	For Ordinary Negligence	Only for Gross Negligence, Misconduct, Intoxication, etc.	Statute
Alabama	No**	No	No	None	No	Yes	§32-1-2
Alaska	No	No	No	None	Yes	No	None
Arizona	No***	Yes	No	None	Yes**	No	None
Arkansas	No*	No	No	None	Yes	No	None
California	Yes**	No	Yes***	Vehicle Code 17150-51	Yes	No	Vehicle Code 17158, 17150 & 17151
Colorado	No*	Yes	No*	None	No**	No	None
Connecticut	No*	Yes*	No*	C.G.S. 52-182, 52-183	Yes	No	None
Delaware	No*	No	No*	21 Del. Code §6106**	Yes	No	Repealed 6/27/83
District of Columbia	Yes*	Yes*	No	Code 50-1301.08	Yes	No	None
Florida	Yes		Yes	None	Yes	No	None
Georgia	No*	Yes	No*	O.C.G.A. §51-2-2	Yes	No	O.C.G.A. §51-1-36
Hawaii	No	No	No	None	Yes	No	None
Idaho	Yes*	No	Yes*	I.C. §§49-2417, 49-117(18)	Yes**	Yes***	I.C. §49-2415
Illinois	No	No	No	None	No	Yes	625 ILCS 5/10-201
Indiana	No**	No	No	None	Yes***	No***	I.C. 34-30-11-1
Iowa	Yes	No	Yes	§321.493**	Yes	No	None
Kansas	No*	No	No	K.S.A. 8-222	Yes	No	None
Kentucky	No	Yes	No	None	Yes	No	None
Louisiana	No	No*	No	C.C. 2317-2320	Yes	No	C.C. 2316
Maine	No***	No	No*	29-A MRSA §§1651, 1652, 1653	Yes	No	None
Maryland	No**	No	No**	***	Yes	No	***
Massachusetts	No**	No***	No**	G.L. Ch. 231 §85 A-D, G	Yes	No	C. 231, §85L.
Michigan	Yes	No**	No	MCL 257.401	Yes	No	None
Minnesota	Yes	No	Yes	§169.09 Subd. 5a	Yes	No	



## Automobiles

	Owner Not in Automobile Liable for Negligence if Operated With His Consent				Owner Liable to Guest		
	Regardless of Agency or Purpose	Under Family Purpose Doctrine	If Not in Course of Employment or on Owner's Business	Statute	For Ordinary Negligence	Only for Gross Negligence, Misconduct, Intoxication, etc.	Statute
Mississippi	No**	No**	No**	63-1-25	Yes	No	None
Missouri	No	No*	No	None	Yes	No	None
Montana	No	No	No		Yes	No	
Nebraska	No	Yes	No		Yes**	Yes**	R.S. §25-21, 237
Nevada	No*	Yes	No	NRS 41.440-460	Yes	No	None
New Hampshire	No	No	No		Yes	No	None
New Jersey	No	Yes**	No***		Yes	No	None
New Mexico	No	Yes	No		Yes	No	None
New York	Yes	No	Yes	N.Y. Veh. & Traf. Law §388**	Yes	No	None
North Carolina	No**	Yes	No	G.S. 20-71.1	Yes	No	None
North Dakota	No*	Yes	No		Yes	No	None
Ohio	No*	No*	No*	None	Yes	No	None
Oklahoma	No	No	No	None*	Yes	No	None
Oregon	No***	Yes	No***	None	Yes	No	None
Pennsylvania	No**	No	No	75 PA. C.S.A. §1574	Yes	No	
Rhode Island	Yes*	No	Yes*	G.L. 31-33-6 & 7	Yes	No	None
South Carolina	No	Yes	No	None	Yes	No	S.C. Code 15-1-290 (Ruled unconstitutional)
South Dakota	No**	No	No	None	Yes*	No	32-34-1 S.D.C.L. 1967 (Repealed, 1978); S.D.C.L. 20-9-1
Tennessee	Yes***	Yes****	Yes***	Yes**	Yes	No	None
Texas	No	No	No	None	Yes**	Yes**	C.P. & R.C §72.001.
Utah	No**	No	No	U.C.A. §53-3-212	Yes	No	None
Vermont	No	No	No	None	Yes	No	None
Virginia	No*	No	No*	8.01-64 & 65	Yes	No	8.01-63
Washington	No	Yes	No	None	Yes	No	None
West Virginia	No	Yes	Yes	W. Va. Code § 33-6-31	Yes	No	None
Wisconsin	No	No	No	None	Yes	No	None
Wyoming	No	No**	No	None	Yes	No	None



**ALABAMA**

- \* Non-residents, federal employees, special circumstances. Sec. 32-6-2
- \*\* Unless owner knows of operator's incompetence. Negligent entrustment.

**ALASKA**

- \* Person signing application for driver under 18-liable for damages. AS 28.15.071(b).

**ARIZONA**

- \* Signer of application (including community assets if signed by either spouse) for under 18 driver jointly and severally liable with the minor where no proof of financial responsibility filed. (A.R.S. §28-3160)
- \*\* By constitution the jury may refuse to apply contributory negligence or assumption of risk. Art.18 §5.
- \*\*\* Owner of automobile permitting unlicensed minor to drive is jointly and severally liable with minor for damages. A.R.S. §28-3163.

**ARKANSAS**

- \* Instruction permit at 14. *See* Ark. Code Ann. § 27-16-604.
- \*\* Permits under 18, parents assume liability. *See* Ark. Code Ann. § 27-16-702.

**CALIFORNIA**

- \* Provisional permits obtainable at age 16. V.C. §12814.6.
- \*\* Liability of owner limited to \$15/30,000 if auto operated by one not agent or servant. Property damage limited to \$5000.
- \*\*\* V.C. §17150 provides that owner of vehicle is liable even if operator is in the business of the owner. V.C. §17151 (a). However, V.C. §17150 as amended permits the owner to recover damages from a negligent third person, even where the concurrent negligence of his driver.

**COLORADO**

- \* Owner liable if he entrusts auto to one known to be incompetent.
- \*\* Owner's insurer may provide coverage if operator is permissive user of owner's vehicle.

**CONNECTICUT**

- \* Rebuttable statutory presumption of agency. Conn. Gen. Stat. §52-183

**DELAWARE**

- \* Agency must be denied by affidavit or may be deemed admitted. 10 Del. C. §3916.
- \*\* Liable for negligence of minor under 18 by signing for license (21 Del. C. §6105) or by furnishing vehicle. 21 Del. C. §6106. Owner liable if uninsured commercial renter. 21 Del. C. §6102.

**DISTRICT OF COLUMBIA**

- \* Subject to limitations of No-Fault D.C. Code 31-2401, et seq., (2002).
- \*\* Restrictions apply under age 18.

**FLORIDA**

- \* Learner's permit at 15. Under 18, parents or authorized person must sign application and accept legal responsibility and license subject to restrictions. F.S. 322.05, 322.09, 322.16, 322.091 and 322.161.
- \*\* Certain persons are exempt from obtaining a driver's license. F.S. 322.04.

**GEORGIA**

- \* Owner liable if he entrusts auto to one known to be incompetent.
- \*\* Learners Permit issuable at age 15. Parent consent required. Driver under age 18 must prove in school (not suspended) or has obtained degree or has parents' permission to withdraw from school under O.C.G.A. §40-5-22 (a.1).
- \*\*\* 14 year old minor with visually impaired parent or guardian. O.C.G.A. §40-5-22 (b). Requires driver training, consisting of either 40 hours of supervised experience or driver education plus 20 hours of supervised experience, as a prerequisite for issuance of an initial Class D license. The Act prohibits Class D licensees from driving at any time between 12:00 midnight and 6:00 a.m., with no exceptions. The Act prohibits Class D licensees from driving with any passenger in the vehicle who is not a member of the driver's immediate family during the first six months after license issuance; after that initial period, Class D licensee is prohibited from driving with more than three other passengers in the vehicle who are not members of the driver's immediate family or less than 21 years old. The Act requires a comprehensive on-the-road driving test for driver's license applicants.

## **AUTOMOBILES**

### **HAWAII**

- \* Person who is fifteen years and six months of age may be granted an instruction permit. Person who is sixteen to seventeen years of age may be granted a license upon satisfying the requirements of sections HRS §§286-108 and 286-109. Applicants under eighteen must complete a driver education program and a behind-the-wheel driver training course certified by the director of transportation. HRS §286-108. If under eighteen, if both parents have custody of applicant, both parents must sign; if only one parent/custodial guardian has custody, that parent/custodial guardian has to sign; and if no parent nor guardian has custody, an employer of the applicant or any responsible parent willing to assume obligation may sign. Any negligence or misconduct by the minor shall be imputed to the person(s) who signed the application. HRS §286-112.
- \*\* No person under the age of thirteen years shall be permitted to drive or operate any such road machine, farm tractor, or implement of husbandry on a highway. HRS §286-105.
- \*\*\* Certified, registered, or express mail, postage prepaid, with return receipt requested. HRS §634-36.

### **IDAHO**

- \* Limitation \$25/50/15,000 if no principal and agent or master and servant relationship. I.C. §49-117 (18).
- \*\* Guest Statute (I.C. §49-2415) held unconstitutional. *Thompson v. Hagan*, 96 Idaho 19, 523 P.2d 1365 (1974).
- \*\*\* I.C. 49-2415 (1988) enacted limiting liability of owner to guest. Constitutionality is questionable.
- \*\*\*\* Daylight only. Full Privileges at 16. See I.C. §49-303.

### **ILLINOIS**

- \* Under 18 adult consent and approved driver program.

### **INDIANA**

- \* A permit will not be issued to a person under 18 years of age unless an adult assumes joint and several liability for any injury or damage caused by the minor by reason of the operation of a motor vehicle. I.C. 9-24-9-3; I.C. 9-24-9-4. If the minor causes injury or damage, the adult's insurer is not liable for any judgment rendered unless the motor vehicle driven by the minor is listed on the adult's policy. *Motorists Mut. Ins. Co. v. Wroblewski*, 898 N.E.2d 1272 (Ind. Ct. App. 2009).
- \*\* Liability imposed if owner gives consent to known incompetent under theory of negligent entrustment.
- \*\*\* Liability to parent, spouse, child, stepchild, sibling, or hitchhiker only for wanton or willful misconduct.

### **IOWA**

- \* An instruction permit may be issued to anyone ages 14 to 18 as long as certain statutory requirements are met. An intermediate license may be issued to anyone 16 or 17 as long as that person held an instruction permit for 6 months prior to application and other statutory requirements are met. At age 17, an individual is eligible for a full license as long as that person held an intermediate license for the 12 months preceding the application and other statutory requirements are met. Iowa Code § 321.180B.
- \*\* If ownership of vehicle is admitted, rebuttable presumption arises that vehicle was driven with owner's consent. *Farm & City Ins. Co. v. Gilmore*, 539 N.W.2d 154 (Iowa 1995). Consent may be express or implied from circumstances. *Id.* Owner not liable for intentional conduct of driver. *Tomkinson v. Turner*, No.07-1598, 2008 WL 942268, \*4 (Iowa Ct. App., April 9, 2008).

### **KANSAS**

- \* Owner may be liable if he causes or permits one under 16 years of age to operate auto, or is negligent in entrusting vehicle to incompetent driver.

### **KENTUCKY**

- \* Must be in school to obtain permit or driver's license.

### **LOUISIANA**

- \* Owner responsible for negligent operation by unemancipated minor child or spouse, regardless of mission.
- \*\* Age 15 eligible for Class "E" learner's license. Age 16 eligible for Class "E" intermediate license. La. Rev. Stat. 32:407 (2004).



**MAINE**

- \* Owner permitting minor under 18 years of age to operate auto, is jointly and severally liable with minor for negligence. 29-A MRSA §1651.
- \*\*\* Owner of vehicle who is in business of renting vehicle is jointly liable with the user. 29-A MRSA §1652. However, this statute is pre-empted by a federal statute for all suits filed on or after August 10, 2005. 42 U.S.C. §30106 (c). Owner who has knowledge or reason to know person is under influence of liquor or drugs and permits person to operate motor vehicle, is jointly or severally liable for damage caused by person's negligence. 29-A MRSA §1653.
- † General age is 16. 29-A MRSA §1251 (5); Special license at 15. 29-A MRSA §1256.

**MARYLAND**

- \* Age 16 years, 3 months, pass driver education - provisional license held until age 17 years, 9 months. TR §16-103.
- \*\* Liability for negligent entrustment. *Kahlenberg v. Goldstein*, 290 Md. 477, 431 A.2d 76 (1981). Rebuttable presumption of agency. *House v. Jerosimich*, 246 Md. 747, 230 A.2d 282. (1967).
- \*\*\* No direct statute, *but see* TR §11-205 preserving private cause of action for negligence.

**MASSACHUSETTS**

- \* Minor 17 or 16-1/2 if complete driver ed.
- \*\* Registration in defendant's name prima facie evidence of operation by one responsible to def. G.L.c. 231, §85A, B, C.
- \*\*\* Parents liable up to \$5000 for children's willful acts causing injury or death to another person or another's property. G.L.c. 231 §85G.

**MICHIGAN**

- \* But see graduated licensing provisions. MCL 257.310e.
- \*\* Knowledge and consent presumed from family relationship.

**MINNESOTA**

- \* Restricted Licenses issued age 15, for farm work (171.041) and/or personal or family medical reasons (171.042). No license issued to persons under 18 yrs. unless the applicant is 16 or 17, has parent or guardian approval and has a valid license from another state or country or the applicant has held a provisional license for the past 12 months without incident. (171.04).

**MISSISSIPPI**

- \* Persons prohibited from obtaining license; issuance of temporary driving permits and intermediate licenses to persons under 17. Miss. Code § 63-1-9.
- \*\* Owner liable if knows driver's incompetence. If signer on minor's (under 17 yrs.) application for permit or license.

**MISSOURI**

- \* Owner may be liable when family member acts as owner agent.

**NEBRASKA**

- \* Restricted School and Learners permits at 15 yrs. NRS § 60-4, 123; 60-4, 124. Provisional operator's permit at 16. NRS § 60-4 120.01.
- \*\* Varies with degree of consanguinity or affinity (Reissued, 1988).

**NEVADA**

- \* Parent liable for all willful torts of child up to \$10,000. NRS 41.470.

**NEW HAMPSHIRE**

- \* Owner liable for allowing unqualified driver to operate. R.S.A.263:1-a. Youth 16-21 years, under 18 completion of driver education course. Not allowed to drive between 1:00-5:00. During the first 6 months cannot operate a motor vehicle with more than one passenger less than 25 years of age who is not family unless accompanied by a licensed responsible adult who is at least 25 years of age. R.S.A. 263:14. Under age of 18 written permission from a guardian, and insurance coverage is required at time of application. R.S.A. 263:17.

## **AUTOMOBILES**

### **NEW JERSEY**

- \* Age 17 for learners permit. N.J. Stat. Ann § 39:3-13. Age 16 for use in approved driver education course. NJ. Stat. Ann § 39:3-13-1
- \*\* Only if agency relationship.
- \*\*\* But if bailor-bailee, *see* 9 N.J. 82 (1952).

### **NEW MEXICO**

- \* Age 15 if pass accredited driver education.

### **NEW YORK**

- \* Certified mail or registered mail, return receipt requested. Constitutionality of portion of statute called into question. *See Marita Car Rentals v. Ishtiaq*, 11 Misc. 3d 506 (N.Y. City Ct. Buffalo 2006).
- \*\* Portion of §388 referring to leasing companies is preempted by 49 U.S.C. §30106. *See Leuchner v. Cavanaugh*, 820 N.Y.S. 2d 786 (N.Y. Sup. Ct. 2006).

### **NORTH CAROLINA**

- \* Limited learner's permit at 15 if passes driver's ed., written test, and has eligibility certificate or diploma. G.S. 20-11(b). Limited provisional license at 16 after learner's permit for 12 months; full provisional license after holding limited provisional license for 6 months. Farm vehicles exempt. G.S.20-8.
- \*\* Statutory presumption of agency.

### **NORTH DAKOTA**

- \* Liability of signer on minor's license application §39-06-09, N.D.C.C.
- \*\* Instruction permit allowed at age 14. §39-06-04, N.D.C.C.

### **OHIO**

- \* Liability of signer on minor's license, (O.R.C. §4507.07). Owner may be liable for negligent entrustment to incompetent driver.

### **OKLAHOMA**

- \* Owner liable for allowing unqualified driver to operate.

### **OREGON**

- \* Under age 18, parental consent required. ORS 807.060(2)(a). Age 14 - Emergency driver permit. ORS 807.220(3)(a). Age 14 - special student driver permit. ORS 807.230(1). Age 15 - Instruction driver permit. ORS 807.280(2)(a).
- \*\* Have to make one attempt at personal, substituted, or office service. If service not effected, defendant can be served by mailings. *See* ORCP 7 D (4).
- \*\*\* Inference of agency created by ownership; owner liable for negligent entrustment.

### **PENNSYLVANIA**

- \* 16 yrs. junior - not from 11 P.M.-5 A.M. unless accompanied by a spouse 18 yrs. or older, a parent or a person in loco parentis, 75 Pa. C.S.A. §1503.
- \*\* Owner liable if he should have known driver was incompetent.

### **RHODE ISLAND**

- \* Registration by defendant is prima facie evidence of consent. G.L. 31-33-7.

### **SOUTH CAROLINA**

- \* Beginner's permit issued under certain conditions - age 15. S.C. Code 56-1-50; Provisional license and restricted license issued under certain conditions. S.C. Code 56-1-175; 56-1-180.

### **SOUTH DAKOTA**

- \* Instruction permits and restricted permits, ages 14-18. S.D.C L Ch 32-12. Application to be signed by parent.
- \*\* Yes, if owner permits incompetent, inexperienced and knowingly reckless and accident prone person to drive.



**TENNESSEE**

- \* 14 in some cases. Tenn. Code Ann. §55-50-312(f).
- \*\* Tenn. Code Ann. §55-10-311(a); §55-10-312. Prima facie evidence of ownership of auto and use in owners business or for owner's benefit.
- \*\*\* Tenn. Code Ann. §55-10-311(a); §55-10-312; *See Godfrey v. Ruiz*, 90 S.W.3d 692 (Tenn. 2002), but the statutory presumption can be rebutted.
- \*\*\*\* *See Camper v. Minor*, 915 S.W.2d 437 (Tenn. 1996).

**TEXAS**

- \* 16 yrs., if passed approved driver course, has diploma, equivalent or is a student and takes written test; 15 yrs. learners and hardship permit. T.T.C. §§521.204, 521.222 & §521.223.
- \*\* Guest statute unconstitutional.

**UTAH**

- \* Drivers training course mandatory all original licensees.
- \*\* Responsible only if operated by minor under 18 with owners knowledge.

**VERMONT**

- \* Minors 16-17 may be licensed under certain circumstances. *See* 23 V.S.A. §607.

**VIRGINIA**

- \* Yes, if owner permits under age driver or negligent entrustment.
- \*\* *See* Va. Code Ann. §46.2-334. Learner's permit may be issued to residents over the age of fifteen (15) years and six (6) months. Va Code Ann. §46.2-335.

**WISCONSIN**

- \* 15 years and 6 months restrictive license; for graduated licensing *see* Wis. Stat. §343.07.

**WYOMING**

- \* 15 yrs. may get instruction permits for limited use with a licensed driver — at least 18 yrs. 31-7-110 W.S.; 14 years restricted license.
- \*\* Owner liable for negligent entrustment only.

## Negligence

	Contributory Negligence As a Defense		Action for Wrongful Death (P/L Pecuniary Loss)				
	Complete Defense	Comparative Negligence Rule Approved	By Whom Brought	Years Within Which Action Must Be Commenced	Measures of Damages	Maximum Amount Recoverable	Distribution of Proceeds
Alabama	Yes*	No	Pers. Rep.**	2**	Punitive***	No Limit	Next of kin****
Alaska	No	Yes	Pers. Rep.	2	Fair Just*	No	Limit spouse & issue or other dependents
Arizona	No	Yes*	Spouse, child, parent or pers. rep.	2	Fair Just	No Limit	Spouse, child, parent, pers. rep., estate
Arkansas	No	Yes	Pers. Rep.	3	Fair Just Punitive	Punitives Cap \$1 million*	Estate spouse, issue, parents, siblings
California	No	Yes	Pers. Rep. or heirs	2*	P/L****	No Limit	Distribution per California law
Colorado	No	Yes	Spouse, if none, heirs	2*	Fair Just	No Limit**	Heirs at Law
Connecticut	No	Yes	Pers. Rep., executor, administrator	2*	Just Damages	No Limit	Last will and testament. If no will, then Heirs at Law
Delaware	No*	Yes	Spouse, parent & children, if none, siblings	2	Fair Just	No Limit	Spouse/Siblings/Heirs in shares as directed by verdict
District of Columbia	Yes*	No	Pers. Rep.	1	P/L	No Limit	Spouse-next of kin
Florida	No	Yes	Pers. Rep.	2	Support & services, survivor pain & suffering, loss of net accumulations, estate expenses	No Limit	Personal representative distributes proceeds to survivors of estate
Georgia	No	Yes	Pers. Rep., spouse or child etc.	2*	Full Life Value	No Limit	Spouse & children,** If none-parent's,- estate representative
Hawaii	No	Yes	Pers. Rep. etc.	2	Fair & Just	No Limit	Spouse, issue of other dependents
Idaho	No	Yes*	Pers. Rep. or heirs as defined	2	Just Damages Punitive	**	Next of kin as damaged
Illinois	No	Yes	Pers. Rep.	2	P/L	No Limit	Spouse, next of kin. If non, person paying hosp. or medical/surgical services and personal rep.



## Negligence

	Contributory Negligence As a Defense		Action for Wrongful Death (P/L Pecuniary Loss)				
	Complete Defense	Comparative Negligence Rule Approved	By Whom Brought	Years Within Which Action Must Be Commenced	Measures of Damages	Maximum Amount Recoverable	Distribution of Proceeds
Indiana	No	Yes	(1) Pers. Rep. (2) Mother, father, guardian	2	P/L*	Limit applicable in certain circumstances**	See I.C. 34-23-1-1
Iowa	No	Yes	Pers. Rep.	2	P/L*	No Limit	See Iowa Code §633.336**
Kansas	No	Yes	Heirs	2	250,000 limit, Non P/L*	No*	Per Court Order
Kentucky	No	Yes	Pers. Rep.	1	Loss of earnings power	No Limit	K.R.S. 411.130
Louisiana	No	Yes	Designated	1	P/L; loss of love/affection, services and support	No Limit**	Designated persons
Maine	Yes***	Yes†	Pers. Rep.	2	P/L*	No Limit	Designated persons
Maryland	Yes*	No	Designated persons	3**	P/L***	Non-economic damage cap CJP §11-108 (a)(2)†††	Designated persons
Massachusetts	No	Yes	Pers. Rep.	3	P/L*	No Limit	Spouse, children, issue, next of kin
Michigan	No	Yes	Pers. Rep.	3*	P/L	No Limit**	Spouse, children, next of kin, some devisees
Minnesota	No	Yes	Trustee appointed by court	3**	P/L	No Limit	Spouse and kin
Mississippi	No	Yes	Pers. Rep.*	6**	P/L	No Limit	Spouse, children, next of kin
Missouri	No	Yes	Designated	3	P/L 537.090 plus services, support, consortium, etc.	No Limit	Per court order
Montana	No	Yes	Personal Rep.	3	P/L	No Limit	Heirs/Estate
Nebraska	No	Yes	Pers. Rep.	2	P/L	No Limit	Widow or widower and next of kin

## Negligence

	Contributory Negligence As a Defense		Action for Wrongful Death (P/L Pecuniary Loss)				
	Complete Defense	Comparative Negligence Rule Approved	By Whom Brought	Years Within Which Action Must Be Commenced	Measures of Damages	Maximum Amount Recoverable	Distribution of Proceeds
Nevada	Yes	Yes	Heirs & Personal Representatives	2	Heirs; Genl. & special damages, pain suffering & disfigurement Pers. Reps: Special damages	No Limit	Court or Jury
New Hampshire	No	Yes	Pers. Rep.	3	P/L*	No Limit**	Estate
New Jersey	No	Yes	Executor; Administrator Ad Pros.	2	P/L and Loss of guidance and counsel	No Limit	Dependents
New Mexico	No	Yes	Pers. Rep.	3	Life's worth	No Limit	Statutory beneficiaries
New York	No	Yes	Pers. Rep.	2	P/L	No Limit	Next of kin*
North Carolina	Yes***	No	Pers. Rep.	2	*	No Limit	As unbequeathed
North Dakota	No	Yes	Spouse children parent gr. parents Pers. Rep. person who had primary physical custody of decedent before wrongful act	2	Special & General Damages	No Limit	Fixed by Trial
Ohio	No	Yes	Pers. Rep.	2	P/L*	No Limit	Surviving spouse, children & parents
Oklahoma	No	Yes	Pers. Rep., unless none, then surviving spouse unless none, then next of kin	2	P/L*	Tiered approach: (i) 100,000 or actual dam.; (ii) 500,000 or twice actual dam.; and (iii) no cap **	Fixed by Trial
Oregon	No	Yes ORS 31.600 <i>et seq.</i>	Pers. Rep.	3*	P/L Medical services, punitive damages****	No Limit for economic damages; \$500,000 cap on non-economic damages	Persons entitled under Intestate Succession Law of State of Decedent's Domicile



## Negligence

	Contributory Negligence As a Defense		Action for Wrongful Death (P/L Pecuniary Loss)				
	Complete Defense	Comparative Negligence Rule Approved	By Whom Brought	Years Within Which Action Must Be Commenced	Measures of Damages	Maximum Amount Recoverable	Distribution of Proceeds
Pennsylvania	Yes*	Yes	Spouse children parents Pers. Rep.	2	P/L	No Limit	Spouse, children & parents
Rhode Island	No	Yes	Pers. Rep.*	3-3**	Min. 100,000 Pecuniary Loss	No Limit	Spouse & child; if none, next of kin
South Carolina	No	Yes***	Pers. Rep.	3	All	No Limit	Statutory beneficiaries
South Dakota	Yes*	Yes*	Pers. Rep.	3	P/L	No Limit	Spouse, children, parents, next of kin
Tennessee	No	Yes*	Spouse, children or next of kin Pers. Rep.	1	P/L**** Mental and physical suffering loss of spousal, parental & filial consortium	No Limit	Tenn. Code Ann. §31-2-101-110; Tenn. Code Ann. §20-5-106-107***
Texas	Yes***	Yes*	Pers. Rep.** & Certain Survivors	2*****	Punitive damage Actual damage	Punitive Damage Cap****	Determined by Jury
Utah	No	Yes	Heirs or Pers. Rep	2	All	No Limit	Heirs
Vermont	No	Yes	Pers. Rep.	2	P/L*	No Limit	Determined by Court
Virginia	Yes	No	Pers. Rep.	2	P/L, Sorrow, mental anguish, solace, punitive	No Limit*	Stat. Benef.
Washington	No	Yes	Pers. Rep.	3	Solace, P/L	No Limit	Stat. Benef.
West Virginia	No	Yes	Pers. Rep.	2	P/L, Sorrow, mental anguish, solace, punitive, medical, expenses	No Limit	Decedent's Will; Law of Descent and Distribution
Wisconsin	No	Yes	Pers. Rep. or Benef.	3	P/L & Society	No Limit*	Spouse, children, parents, siblings who were minors at time of death if none, lineal heirs
Wyoming	No	Yes	Pers. Rep.	2	P/L Society & Exemplary	No Limit	Spouse, children, parents, siblings, grandparents, uncles aunts and cousins

## Negligence

			Abatement and Survival of Actions				Husband and Wife	Release		
			Personal Injury		Property Damage			Infants' Tort Claims		Joint Tort Feasors
	May Include Damages for Pain and Suffering Before Death	Statutes	Survive Death of Plaintiff	Survive Death of Defendant	Survive Death of Plaintiff	Survive Death of Defendant	May Sue Each Other in Tort	Release of Parent or Guardian Sufficient	Court Approval Required	Release of One Without Reservations Release All
Alabama	No	§6-5-391 §6-5-410	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Alaska	Yes	A.S. 09.55.580; A.S. 09.15.010	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Arizona	No***	A.R.S. §§12-542, 12-612, 12-613	Yes**	Yes	Yes	Yes	Yes	No	Yes	No
Arkansas	Yes	Ark. Code Ann. §§ 16-62-102, 16-61-204	Yes	Yes	Yes	Yes	No	Yes	Yes	No
California	No	C.C.P. 377.34	Yes**	Yes**	Yes	Yes	Yes	No	Yes	No***
Colorado	No	§13-21-201 C.R.S. <i>et seq.</i>	Yes***	Yes	Yes	Yes	Yes	No	Yes	No
Connecticut	Yes	G.S. 52-572h, 52-555 45a-448	Yes	Yes	Yes	Yes	Yes	Yes**	No**	No
Delaware	No**	10 Del. §3721 <i>et seq.</i>	Yes	Yes	Yes	Yes	Yes	No	Yes****	No***
District of Columbia	Yes	12-101; 16-2701, <i>et seq</i>	Yes	Yes	Yes	Yes	Yes**	No	Yes	No***
Florida	Yes*	§768.16- to .27	Yes**	Yes	Yes	Yes	Yes	No	Yes	No
Georgia	Yes	9-3-33; 51-4-1, <i>et seq.</i>	Yes	Yes	Yes	Yes	No***	No	Yes	No††
Hawaii	Yes*	HRS §663-3 663-7; HRS §663-8.7	Yes	Yes	Yes	No	Yes	No	Yes	No
Idaho	No	5-219(4) 5-311; 49-2417	No***	Yes	Yes	Yes	Yes	No	Yes	No
Illinois	Yes	740 ILCS 180/1, 2	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Indiana	No	I.C. 34-23-1-1; 34-23-2-1; 34-23-1-2	Yes	Yes	Yes	Yes	Yes	No***	Yes***	No****



## Negligence

			Abatement and Survival of Actions				Husband and Wife	Release		
			Personal Injury		Property Damage			Infants' Tort Claims		Joint Tort Feasors
			May Include Damages for Pain and Suffering Before Death	Statutes	Survive Death of Plaintiff	Survive Death of Defendant	Survive Death of Plaintiff	Survive Death of Defendant	May Sue Each Other in Tort	Release of Parent or Guardian Sufficient
Iowa	Yes	§§613.15; 633.336	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Kansas	Yes	K.S.A. 60-1801, <i>et seq.</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Kentucky	Yes	K.R.S. 411.130, 411.133, 411.140	Yes	Yes	Yes	Yes	Yes	*	*	No
Louisiana	Yes	C.C. 2315 2323, 2324; LSA-R.S. 9:291	Yes	Yes	Yes	Yes	No*	No	Yes	No
Maine	Yes	18-A M.R.S.A. 2-804	Yes	Yes	Yes	Yes	Yes	No††	Yes	Yes**
Maryland	Yes	CJP 3-901 <i>et seq.</i> ; E&T §7-401	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Massachusetts	Yes	G.L. 229	Yes	Yes	Yes	Yes	Yes	**	**	No
Michigan	Yes	MCL 600.2922	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Minnesota	No	§573.01, 573.02	*	Yes	Yes	Yes	Yes	No	Yes	Yes
Mississippi	Yes	§11-7-13, §91-7-233, as amended by S.B. 2424, 2009 Leg., 124 <sup>th</sup> Sess. (Miss. 2009).	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes***
Missouri	Yes	§537.020, 537.080, <i>et seq.</i> R.S. Mo	Yes	Yes	Yes	Yes	Yes	No	Yes	No*
Montana	Yes	M.C.A. §27-1-501, 513	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Nebraska	Yes	R.R.S. 30-809; 30-810 (Reissue 1995)	Yes	Yes	Yes	Yes	Yes*	No	Yes	Yes**
Nevada	Yes (Heirs only.)	N.R.S. 11.190(4); 41.141.41.085	Yes	Yes	Yes	Yes	Yes*	No	Yes	No**
New Hampshire	Yes	R.S.A. 556:10-14	Yes	Yes	Yes	Yes	Yes	No	Yes Over 10,000	No

## Negligence

			Abatement and Survival of Actions				Husband and Wife	Release		
			Personal Injury		Property Damage			Infants' Tort Claims		Joint Tort Feasors
			May Include Damages for Pain and Suffering Before Death	Statutes	Survive Death of Plaintiff	Survive Death of Defendant	Survive Death of Plaintiff	Survive Death of Defendant	May Sue Each Other in Tort	Release of Parent or Guardian Sufficient
New Jersey	Yes	N.J.S. 2A:31-1 <i>et seq.</i>	Yes	Yes	Yes	Yes	Yes*	No	Yes	No**
New Mexico	Yes	NMSA 1978 41-2-1. <i>et seq.</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	No
New York	Yes	N.Y. Est. Powers & Trusts Law 5-4.1 <i>et seq.</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	No unless release terms so provide GOL §15-108
North Carolina	Yes	N.C.G.S. 28A-18-1 & 2	Yes**	Yes**	Yes	Yes	Yes	No	Yes	No
North Dakota	Yes	N.D. Century Code 32-21-01 <i>et seq.</i> , and 32-03.2-04	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Ohio	Yes	O.R.C. §2125.01 <i>et seq.</i>	Yes	Yes	Yes	Yes	Yes	**	Yes	No
Oklahoma	Yes	OKLA. STAT. tit. 23, §9.1; 12, §§1053-1055	Yes	Yes	Yes	Yes	Yes	No	Yes***	No****
Oregon	Yes	O.R.S. 30.010-.100; O.R.S. 31.710(1)	Yes**	Yes	Yes	Yes	Yes	***	Yes	No unless release terms so provide O.R.S. 31.815
Pennsylvania	Yes	42 Pa. C.S.A.; 8301-8302; Pa. R.C.P. 2201 <i>et seq.</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Rhode Island	Yes	G.L. 10-7-1 to 13; P.L. 1982, Ch. 435	Yes	Yes	Yes	Yes	No***	Yes	Yes (Amt. over \$10,000)	No



## Negligence

			Abatement and Survival of Actions				Husband and Wife	Release		
			Personal Injury		Property Damage			Infants' Tort Claims		Joint Tort Feasors
			May Include Damages for Pain and Suffering Before Death	Statutes	Survive Death of Plaintiff	Survive Death of Defendant	Survive Death of Plaintiff	Survive Death of Defendant	May Sue Each Other in Tort	Release of Parent or Guardian Sufficient
South Carolina	No**	S.C. Code 15-51-10 thru 60	Yes	Yes	Yes	Yes	Yes	No	Yes	No
South Dakota	No	S.D.C.L. Ch. 21-5	Yes	Yes	Yes	Yes	Yes	No	Yes	No**
Tennessee	Yes**	Tenn. Code Ann. §§20-5-102, 106	Yes**	Yes	Yes	Yes	Yes	No	Yes	No
Texas	Yes	C.P. & R.C. ch. 71	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Utah	Yes	U.C.A. §§78B-3-102; 78B-3-106; 78B-3-107	Yes*	Yes	Yes**	Yes	Yes***	Yes***	No****	No
Vermont	Yes	14 V.S.A. §§1451-1452, 1491-1492	Yes**	Yes	Yes	Yes	Yes	Yes***	No***	Yes
Virginia	No	§8.01-52, <i>et seq.</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Washington	Yes	RCW Ch. 4.20	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No*
West Virginia	No	W. Va. Code §§55-7-5, §55-7-8a	Yes	Yes	Yes	Yes	Yes	Yes*	Yes*	No
Wisconsin	Yes	Wisc. Stat. 895.04	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes**
Wyoming	No	1-38-101 & 102 W.S.	Yes*	Yes	Yes	Yes	Yes	Yes**	Yes	No



## NEGLIGENCE

### ALABAMA

- \* Unless defendant willfully negligent, etc. *Day v. Downey*, 256 Ala. 587 (1952); *Kansas City, M. & B.R. Co. v. Lackey*, 114 Ala. 152 (1897).
- \*\* Parent within six months. Ala. Code §6-5-391.
- \*\*\* Such as jury may assess. *General Telephone Co. of Ala. v. Cornish*, 280 So. 2d 541 (Ala. 1973).
- \*\*\*\* With qualifications. §6-5-410 (c)

### ALASKA

- \* If no spouse, children, or dependents, limited to pecuniary.

### ARIZONA

- \* Unless defendant intentionally, willfully, or wantonly negligent (A.R.S. §12-2505).
- \*\* Exception is pain and suffering (A.R.S. §14-3110).
- \*\*\* *But see Denton v. Superior Ct.*, 190 Ariz. 152, 945 P.2d 1283 (1997) (Claim for pain and suffering under Arizona's elder abuse statute, A.R.S. Sec. 46-455 (B), survives death of abused person).

### ARKANSAS

- \* For incidents occurring on or after March 25, 2003, punitive damages limited to the greater of (a) \$250,000 or (b) three times amount of compensatory damages (up to \$1 million). *See* Ark. Code Ann. § 16-55-208(a). Cap does not apply if clear and convincing shows that defendant intentionally (and successfully) engaged in conduct designed to harm plaintiff. *Id.* § 16-55-208(b)(1)-(2).

### CALIFORNIA

- \* Beginning January 1, 2003
- \*\* C.C.P §§377.20(a), 377.30, 377.40, 377.50, 377.60.
- \*\*\* Secs. C.C. 1543.
- \*\*\*\* Punitive damages are not recoverable in a wrongful death action but are recoverable in a survival action.

### COLORADO

- \* 2 yrs. after alleged negligence or 1 yr. after death, whichever is later.
- \*\* If decedent left no widow, widower, minor child, or dependent parent, damages shall not exceed \$468,010.
- \*\*\* To a limited extent. *See* §13-20-101 C.R.S.

### CONNECTICUT

- \* 2 yrs from date of death — Max. 5 yrs. from date of act or omission. C.G.S. 52-555
- \*\* Settlements in excess of \$10,000 require Probate Court approval. C.G.S. 45a-631.

### DELAWARE

- \* Except where negligence of plaintiff is greater than that of all defendants. 10 Del. C§8132.
- \*\* Recoverable in survival action; 10 Del. C. §3704(a).
- \*\*\* Uniform Joint Tort Feasors Act, Code 10 Del. C. §6304.
- \*\*\*\* Though seldom used in clear liability cases where agreed value is under \$5,000.

### DISTRICT OF COLUMBIA

- \* Except for employers which are common carriers, D.C. Code §35-302 (2002).
- \*\* *See* D.C. Code §46-601.
- \*\*\* *See District of Columbia v. Washington Hosp. Ctr.*, 722 A.2d 332 (D.C. 1988).

### FLORIDA

- \* Spouse or minor children of adult, or parent of deceased minor child. Effective 10/1/90, parent of an adult child may recover if there are no other survivors. F.S. 768.18.
- \*\* If plaintiff's injury, for which suit is brought, results in death of plaintiff, tort action does not survive. F.S. 768.20.



**GEORGIA**

- \* *But see* 101 Ga. 70, 28 S.E. 684, 135 Ga. App. 531, 4 yrs. — Loss services.
- \*\* Surviving spouse holds wrongful death claim individually and as representative for children; administrator holds for next of kin, estate claims and P&S. Punitive damages not recoverable in wrongful death but are recoverable by administrator. 171 Ga. App. 331.
- \*\*\* Except for torts which involve spouses' separate property rights. O.C.G.A. 19-3-9; if one or both spouses are killed in the incident, or if "extraordinary circumstances" exist, spousal immunity may be abrogated. *Harris v. Harris*, 252 Ga. 387, 313 S.E.2d 88 (1984).
- † As part of estate claims only, not wrongful death.
- †† *See Posey v. Medical Center*, 257 Ga. 55, 354 S.E.2d 417 (1987).

**HAWAII**

- \* Per HRS §663-8.7: Damages recoverable for pain and suffering as defined in section 663-8.5 shall be limited to a maximum award of \$375,000; provided that this limitation shall not apply to tort actions enumerated in section 663-10.9(2).

**IDAHO**

- \* If negligence of plaintiff is as great as, or greater than defendant no recovery. I.C. §6-801.
- \*\* Auto cases, if driver was not in an agency relationship with owner, then permissive owner may be liable up to the greater of either the owner's liability insurance or \$25,000 for injury or death of one person and \$50,000 for injury or deaths of more than one person in any accident. If owner is in business of renting or leasing and rents or leases motor vehicle, then owner is not liable. I.C. §49-2417.
- \*\*\* No general survival action in Idaho. However, certain actions may not abate upon death IC. §§5-319; 5-327.

**INDIANA**

- \* Limits damages to pecuniary losses including, but not limited to, medical, hospital, funeral and burial expenses, lost earnings, cost of administration to pursue the action, loss of love, care and affection, and other provable losses. In action for wrongful death of child, damages include loss of child's society, loss of child's love and companionship, medical and burial expenses, psychiatric & psychological counseling incurred by surviving parent & minor siblings, uninsured debts of child, & administration of child's estate.
- \*\* For claims relating to wrongful death of an unmarried adult with no dependants, damages for loss of love and companionship suffered by non-dependant parent or child are capped at \$300,000.
- \*\*\* *See* I.C. 29-3-9-7.
- \*\*\*\* Release interpreted as a contract releasing only those persons intended to be released. *See* I.C. 34-9-3-1; 34-9-3-3; 34-9-3-5.

**IOWA**

- \* Punitive damages if defendant's conduct is willful and wanton. Iowa Code § 668A.1.
- \*\* Distributed as personal property belonging to the deceased. If damages include damages for loss of services and support of deceased spouse and parent, court will equitably divide damages between surviving spouse and children. Iowa Code § 633.336.

**KANSAS**

- \* \$250,000 Max. for loss other than pecuniary loss.
- \*\* L. 1998, Ch. 68 §1; July 1, 1998, not retroactive. Prior to July 1, 1998 - \$100,000.

**KENTUCKY**

- \* If under \$10,000 payable to person having custody, otherwise court appointed guardian required. KRS 387.280.

**LOUISIANA**

- \* La. Rev. Stat. 22:1269 permits suit by husband or wife against other's insurer.
- \*\* Except in medical malpractice case where cap is \$500,000.

## NEGLIGENCE

### MAINE

- \* Also medical & funeral expenses (uncapped), conscious pain and suffering (uncapped), damages for loss of society, and emotional distress (capped \$500,000), and punitive damages (capped \$75,000). 18-A MRSA §2-804.
- \*\* At common law, unless release agreement reserves rights. “No” under 14 MRSA §163.
- \*\*\* If plaintiff’s negligence is equal to or greater than defendant’s negligence.
- † Modified comparative fault statute, 14 MRSA §156.
- †† Unless court approves under M.R.Civ. P. 17A.

### MARYLAND

- \* Subject to doctrine of “Last clear chance.” *Ritter v. Portera*, 59 Md. App. 65,474 A.2d 556 (1984), and distinguished by *Burdette v. Rockville Crane Rental, Inc.*, 130 Md. App. 193, 215, 745 A.2d 457, 468 (2000); see also *Carter v. Senate Masonry*, 156 Md. App. 162, 846 A.2d 50 (2004).
- \*\* Action against a decedent’s estate — within the earlier of the following: 6 months after the date of the decedent’s death; or 2 months after the personal representative mails or otherwise delivers to the creditor a copy of a notice in the form required by E & T, §7-103 of this article or other written notice, notifying the creditor that his claim will be barred unless he presents the claim within 2 months 3 years of the date when the case of death was discovered, whichever is the shorter. CJP §3-904.
- \*\*\* Except that death of spouse, minor child, parent of a minor child or an unmarried child who is not a minor child if; (I) the child is 21 years old or younger, (ii) or a parent contributed 50 percent or more of the child’s support within the 12-month period immediately before the date of death of the child permits recovery for mental anguish, emotional pain & suffering, etc. CJP §3-904(d).
- † Personal representative may bring an action which might have been commenced by decedent for pain & suffering. E&T §7-401(y).
- †† For negligence *Boblitz v. Boblitz*, 296 Md. 242, 462 A.2d 506 (1983).
- ††† The limitation on non-economic damages provided under paragraph (2) shall increase by \$15,000 on October 1 of each year beginning on October 1, 1995. The increased amount shall apply to causes of action arising between October 1 of that year and September 30 of the following year. CJP §11-108.

### MASSACHUSETTS

- \* Punitive damages for gross neg. or willful misconduct.
- \*\* Guardian or parent, with Court approval.

### MICHIGAN

- \* Or within 2 years after appointment of plaintiff’s pers. rep., but not more than 3 years after statute of limitations has run.
- \*\* Except in medical malpractice. See cases.

### MINNESOTA

- \* Yes, if injury causes death, but no recovery for conscious pain and suffering. Only for wrongful death. (See 573.02).
- \*\* Provided the action is commenced within 6 years of act or omission (See 573.02 Subd. 1).

### MISSISSIPPI

- \* And others by statute.
- \*\* For all actions accruing on or after July 1, 1989, general statute of limitations is changed from six to three years.
- \*\*\* *But see* Miss. Code § 85-5-1 stating release of one joint tortfeasor shall not affect the right or remedy against another joint tortfeasor. See *Country Club of Jackson v. Saucier*, 498 So. 2d 337 (Miss. 1986), distinguished by *Scott v. Gammons*, 985 So. 2d 872 (Miss. Ct. App. 2008); *but see J & J Timber Co. v. Broome*, 932 So. 2d 1 (Miss. 2006) (injured party’s release of an employee from tort liability extinguishes all claims of vicarious liability against the employer, despite any reservation of rights). Full satisfaction will also act as a release.

### MISSOURI

- \* No, unless there is a complete satisfaction.

### NEBRASKA

- \* Action recognized in *Imig v. March*, 203 Neb. 537, 279 N.W.2d 382 (1979).
- \*\* Depending largely on language of release.

**NEVADA**

- \* Only arising from M.V. accidents *Rupert v. Stienne*, 90 Nev. 397, 528 P.2d 1013 (1974).
- \*\* Release or covenant will reduce the recovery against other N.R.S. 17.245.

**NEW HAMPSHIRE**

- \* Plus mental and physical pain suffered by decedent, reasonable expenses occasioned to estate by injury, probable duration of life but for injury, earning capacity during decedent's probable working life, loss of comfort, society, companionship to surviving spouse, loss of familial relationship to surviving parent or minor child. RSA §556:12 (I)-(III). Hedonic damages are available. *See Marcotte v. Timberlane/Hampstead Sch. Dist.*, 143 N.H. 331, 733 A.2d 394 (1999) (finding legislature intended to include loss of life damage element in wrongful death action); *Bennett v. Lembo*, 145 N.H. 276, 761 A.2d 494 (2000) (permitting recovery of hedonic damages for permanent impairment despite absence of specific legislative authorization).
- \*\* If comparative fault exists for claimant or decedent: (1) Surviving spouse limited to \$150,000 for loss of comfort, society and companionship; (2) Where decedent is a parent of a minor child or where decedent is a minor child, damages awarded limited to \$50,000 per individual claimant. RSA §§507:7-d; 556:12(II)-(III). If no surviving spouse, child, parent, or dependent relative, limit of \$50,000. RSA §556:13.
- \*\*\* No reduction in share of beneficiary who was contributory negligent in causing accident. *In re Estate of Infant Fontaine*, 128 N.H. 695, 519 A.2d 227 (1986).

**NEW JERSEY**

- \* All accidents on or after 6/1/78, 388 A.2d 951, with some exceptions.
- \*\* See 28 N.J. 351; 28 N.J. 372 Re: consideration — intention.

**NEW MEXICO**

- \* Or spouse and children etc.

**NEW YORK**

- \* In proportion to their individual pecuniary loss.

**NORTH CAROLINA**

- \* Special damages, pain & suffering, present monetary value of decedent of persons entitled to receive damages, punitive damages, related expenses G.S.D. 28A-18-2.
- \*\* Except libel, slander, false imprisonment, and other causes where relief sought would be “nugatory after death.” G.S. 28A-18-1.
- \*\*\* Not a defense if defendant's conduct is wilful and wanton.

**OHIO**

- \* Plus loss of services, loss of society, loss of prospective inheritance, and mental anguish suffered by surviving spouse, minor children, parents or next of kin.
- \*\* Parent or natural guardian may execute valid release with court approval for claims of \$10,000 or less. Formal appointment of guardian required when claims exceed \$10,000. O.R.C. §2111.18.

**OKLAHOMA**

- \* Loss of consortium and grief of surviving spouse, mental pain and anguish of decedent. Grief and loss of companionship of children and parents, punitive damages where appropriate.
- \*\* 12 O.S. § 9.1, PUNITIVE DAMAGES: Reckless disregard – greater of \$100,000 or actual damages. Intention and with malice greatest of \$500,000 or twice actual damages, or financial benefit of defendant. Beyond a reasonable doubt conduct – threatened a human life, no cap; 20 O.S. § 61.2 (Nov. 1, 2009). BODILY INJURY DAMAGES: non-economic dam. limited to \$400,000 unless, in suits against doctors, the judge and jury finds by clear and convincing evidence (or in suits against non-doctors, the trier of fact finds by a preponderance of the evidence) the plaintiff suffered permanent and substantial physical abnormality or disfigurement, loss of use of a limb, or loss of, or substantial impairment to, major body organ or system OR plaintiffs have a permanent physical functional injury preventing them from being able to independently care for themselves or perform life-sustaining activities OR the defendant acted with reckless disregards, was grossly negligent, fraudulent or acted intentionally and with malice.
- \*\*\* Where settlement includes in excess of \$1,000 over sums sufficient to pay costs and expenses (including medical bills and attorney fees), and where minor has beneficial interest in proceeds of a wrongful death action.
- \*\*\*\* Unless other tortfeasor is specifically named. 12 O.S. § 832.

## NEGLIGENCE

### OREGON

- \* Action against public body for wrongful death must be brought within 2 years. ORS 30.275(9); notice within 1 year. ORS 30.275(2)(a); 30.275(8) (exceptions to notice requirement). *See generally* ORS 30.260 *et seq.* (Tort actions against public bodies (amended by 2009 Oregon Laws Ch. 67 (S.B. 311) adopted April 15, 2009).
- \*\* Abatement and Survival of Actions - ORCP 34.
- \*\*\* See statement under “CONSTRUCTION OF POLICY, Capacity - Infants” in main digest.
- \*\*\*\* Only if decedent would have been entitled to recover from wrongdoer if decedent had lived.

### PENNSYLVANIA

- \* In purely financial loss scenarios with no death or injury to person or property.

### RHODE ISLAND

- \* If no pers. rep. apptd. or he fails to bring action within 6 mos. may be brought by beneficiaries.
- \*\* Within 3 yrs. after death or within 3 yrs. of discovery of wrongful act which caused death. Sec. 10-7-2, G.L.; P.L. 1982, CH.
- \*\*\* Except that death of spouse, minor child, parent of a minor child or an unmarried child who is not a minor child if; (I) the child is 21 years old or younger (ii) or a parent contributed 50 percent or more of the child's support within the 12-month period immediately before the date of death of the child permits recovery for mental anguish, emotional pain & suffering, etc. CJP §3-904(d).
- † Personal representative may bring an action which might have been commenced by decedent for pain & suffering E&T §7-401(y).
- ††† The limitation on non-economic damages provided under paragraph (2) shall increase by \$15,000 on October 1 of each year beginnings on October 1, 1995. The increased amount shall apply to causes of action arising between October 1 of that year and September 30 of the following year. CJP §11-108.

### SOUTH CAROLINA

- \* By intestate distribution under S.C. Code 62-2-109 & 15-51-40.
- \*\* Recoverable in survival actions; actions under wrongful death & survival may not be joined in single cause of action.
- \*\*\* Comparative as of 7/1/91 *see Nelson v. Concrete Supply*, 303 S.C. 243, 399 S.E.2d 783 (1991), for causes of action arising after July 1, 1991.

### SOUTH DAKOTA

- \* Contributory negligence, if more than slight, is complete defense.
- \*\* S.D.C.L. 15-8-17 claim reduced by amount stated in release.

### TENNESSEE

- \* Modified comparative fault instituted May 4, 1992. *McIntyre v. Balentine*, 833 S.W.2d 52 (Tenn. 1992).
- \*\* In case of character wrongs, action does not survive death of plaintiff.
- \*\*\* A parent may not recover until outstanding child support arrearages are paid.
- \*\*\*\* *Jordan v. Baptist Three Rivers Hosp.*, 984 S.W.2d 593 (Tenn. 1999); *Hancock v. Chattanooga - Hamilton County Hosp. Auth.*, No. E1999-00169-SC- R 11-CV, 2001 WL 997372 (Tenn. 2001).

### TEXAS

- \* Railway employees, T.R.S. 6440; for others, modified comparative negligence, C.P. & R.C. ch. 33.
- \*\* Ex. or Admin. may if not brought within 3 months.
- \*\*\* If greater than 50%.
- \*\*\*\* Punitive damages may not exceed the greater of 2 times amount of economic damages plus noneconomic damages not to exceed \$750,000; or \$200,000. C.P.& R.C. §41.008.
- \*\*\*\*\* A survival action can toll the statute of limitations up to 12 months after death or until an executor qualifies. C.P.&R.C. §16.062

### UTAH

- \* If death results from cause other than negligence of tortfeasor, only special damages are recoverable.
- \*\* P.D. for trespass or waste. U.C.A. §75-3-708; *Fretz v. Anderson*, 6 Utah 2d 169, 308 P.2d 948 (1957).
- \*\*\* Yes for intentional torts. Questionable for negligent torts; *State Farm Mut. Auto Ins. Co. v. Mastbaum*, 748 P.2d 1042 (Utah 1987).
- \*\*\*\* When settlement is less than \$10,000, otherwise court approval required. U.C.A. §75-5-102.



**VERMONT**

- \* By parent for death of infant; by heirs or personal representative for death of adult. Also loss of comfort and companionship, care and protection for minor child or adult, lost wages/earning capacity, funeral and burial expenses, and emotional distress, pain and suffering before death, and punitive damages where appropriate.
- \*\* Special damages only, unless injuries caused death.
- \*\*\* \$1500 or under requires superior court judge approval of parental release; over \$1500 requires court-appointed guardian release.

**VIRGINIA**

- \* In actions accruing after July 1, 1988, punitive damages are limited to \$350,000. *See* 8.01 - 38.1.

**WASHINGTON**

- \* Court approved release does not release other jointly responsible parties but does reduce the amount of their liability. R.C.W. 4.22.060.

**WEST VIRGINIA**

- \* CH. 44, Art. 10, §14 authorizes settlement by legal guardian subject to Circuit Ct. approval.

**WISCONSIN**

- \* Limit of \$500,000 for minor, \$350,000 for adults on society; in medical malpractice, limit of \$350,000 for non-economic.
- \*\* But question of intent *see Brown v. Hammermill Paper Co.*, 88 Wis. 2d 224, 276 N.W.2d 709 (1979).

**WYOMING**

- \* But damages limited to recovery for wrongful death. 1-4-101 W.S.
- \*\* When money less than \$3,000 is value.

## Limitation of Time for Commencement of Action

(Also see Cases and Statutes)

(Medical Malpractice and Products suits have many exceptions)

See Footnote	TORT							CONTRACT		
	Personal Injuries	Property Damage	Wrongful Death	Libel	Slander	Assault & Battery	Medical Malpractice	Oral	Written	
									Under Seal	Not Under Seal
Alabama	2t-u	2a	2	2	2	6	2	6	10	6
Alaska	2s	2b-s	2s	2s	2s	2s	2s	3	3	3
Arizona	2k	2	2	1	1	2	2	3	6	6q
Arkansas	3	3	3	3	1	1	2	3	5	5
California	2	3c	2	1	1	2	1-3d	2	4	4
Colorado	2i	2i	2i	1	1	1	2f	3	3	3
Connecticut	2h	2h	2h	3	3	3	2h	3p	6p	6p
Delaware	2	2	2	2	2	2	2e	3p	20p	3p
District of Columbia	3j	3m-n	1n	1n	1n	1n	3	3g	3r-g	3g
Florida	4	4	2	2	2	4	2	4	5	5

- a. Actions for trespass, detention or conversion of personal property, and actions for use and occupation of land governed by six year statute of limitations.
- b. Waste or trespass governed by six year statute of limitation.
- c. Many exceptions but generally 3 years for injury/damage to real and personal property. All statutes of limitation tolled for minors until age of majority (18).
- d. 3 years from injury or 1 year from discovery.
- e. If undiscovered with the exercise of reasonable diligence, then three years from date of injury. 18. Del. C§6856.
- f. Max. 3 years from act.
- g. For sale of goods: 4 years D.C. Code §28: 2-725; Md. CL§2-725; Mass G.L.C.106§2-725; IL. 810 ILCS §5/2-725
- h. 2 years from injury or date when injury reasonably discovered for negligence, recklessness or malpractice; 3 years maximum from act or omission. Conn. Gen. Stat. §52-584. 2 years from date of death for wrongful death action; 5 years maximum from act or omission. See Conn. Gen. Stat. §52-555. 3 years from act or omission for other torts. Conn. Gen. Stat. § 52-577. Product liability actions to be brought within 3 years from date of injury, death or damage, with numerous exceptions. See Conn. Gen. Stat. §52-577a.
- i. 3 years for auto accidents after 7/1/94.
- j. Claim for unliquidated damages against county of municipality requires notice within 180 days. 12-309 (2002).
- k. Twelve year limitation of action on strict product liability contained in A.R.S. §12-551 found unconstitutional in *Hazine v. Montgomery Elevator Co.*, 176 Ariz. 340, 861 P.2d 625 (1993).
- m. 10 years architect-contractor negligence. 12-310 (2002).
- n. Claim for unliquidated damages required notice within 6 months. 12-309.
- p. 3 years for oral executory contracts, Conn. Gen. Stat. §52-581; 6 years for all other contracts; 1 year for contracts of employment. Conn. Gen. Stat. §52-576.
- q. 3 yrs for oral executory contracts (A.R.S. §12-543); 6 yrs for all other contracts (A.R.S. §12-548); 1 year for contracts of employment (A.R.S. §12-541); 8 year statute of repose, from date of completion or occupancy, for property damage claims arising from development, design, surveying or construction of improvement to real property (A.R.S. §12-552).
- r. 12 years for suits seeking to recover damages other than damage to real or personal property. *D.C. Armory Bd. v. Volkert*, 402 F.2d 215 (D.C. Cir. 1968).
- s. Many exceptions - see statute and cases. Statute of limitation begins to run from date of alleged act or omission subject to discovery rule. For minors, statute is tolled until minor turns 18.
- t. There is no "discovery rule" to toll running of limitations period with respect to wantonness actions; "Discovery rule" in Alabama is applicable only to fraud actions. *Henson v. Celtic Life Ins. Co.*, 621 So. 2d 1268, 1274.
- u. Actions for wantonness may be subject to six year statute of limitations. *McKenzie v. Killian*, 887 So. 2d 861, 870 (Ala. 2004).



## Limitation of Time for Commencement of Action

(Also see Cases and Statutes)

(Medical Malpractice and Products suits have many exceptions)

See Footnote	TORT							CONTRACT		
	Personal Injuries	Property Damage	Wrongful Death	Libel	Slander	Assault & Battery	Medical Malpractice	Oral	Written	
									Under Seal	Not Under Seal
Georgia	2f	4	2	1	1	2	2e	4	20r	6r
Hawaii	2	2	2	2	2	2	2-6s	6	6	6
Idaho	2	3-4a	2	2	2	2	2j	4	5	5
Illinois	2	5	2	1	1	2	2m	5g	10g	10g
Indiana	2	2c	2	2	2	2	2k	6t	6h	6h
Iowa	2	5	2	2	2	2	2q	5	10	10
Kansas	2i	2	2	1	1	1	2n	3	5	5
Kentucky	1b	2	1	1	1	1	1p	5	15	15
Louisiana	1	1	1	1	1	1w	1d	10	10	10
Maine	6u-v	6u-v	2u-v	2	2	2	3	6u	20u	6u

- a. Or within 6 months after appointment of defendant's Rep.
- b. Except under "No-fault" Extended 2 years from date of accident or date on which last medical bill paid.
- c. Or 6 years for real property.
- d. Max. 3 years from act.
- e. O.C.G.A. §9-3-71 5 year statute of ultimate repose.
- f. 4 years for actions involving loss of consortium; 1 year for injury to reputation.
- g. For sale of goods: 4 years D.C. Code §28: 2-725; Md. CL §2-725; Mass G.L.C. 106 §2-725; IL. 810 ILCS §5/2-725
- h. For written contracts for the payment of money, 10 years if executed before Sept. 1, 1982 and 6 years if executed thereafter; for written contracts other than for the payments of money (except chattel mortgages, deeds of trust, judgments of courts of record, and the recovery of real estate), 20 years if executed before Sept. 1, 1982 and 10 years if executed thereafter. I.C. 34-11-2-9; 34-11-2-11.
- i. 2 years if damages for P.I.
- j. In cases where damage has been fraudulently and knowingly concealed, statute of limitations commences when injured party knows or in exercise of reasonable care should have put on inquiry regarding the condition. I.C. §5-219(4).
- k. Except that a minor under 6 years shall have until his 8th birthday in which to file, I.C. 34-18-7-1; and time limitations are tolled if the patient suffered from a latent condition which made it impossible for him to discover alleged malpractice during statutory period. *Martin v. Richey*, 711 N.E.2d 1273, 1278 (Ind. 1999).
- m. Within 2 years of discovery, but no more than 4 years after injury 735 ILCS 5/13-212.
- n. Non contractual actions only. Action deemed to accrue at time act first causes injury unless not reasonably discovered until after act but in no event shall action be commenced more than 4 years after act KSA 60-513(c).
- p. Within 1 year of discovery of injury or date it should have been discovered through exercise of ordinary care and due diligence.
- q. No more than 6 years from act or omission. [Sec. 614.1(9)].
- r. 3 years for oral executory contracts; 6 years for all other contracts; 1 year for contracts of employment.
- s. Two years after plaintiff discovers or through use of reasonable diligence should have discovered, injury, but in any event not more than six years after date of alleged act or omission causing injury or death. Actions by minor shall be commenced within six years from date of alleged wrongful act except actions by a minor under the age of ten years shall be commenced within six years or by minor's tenth birthday, whichever provides a longer period. These year limitations may be tolled in certain circumstances per statute. HRS §657-7.3.
- t. All contracts except for employment.
- u. Malpractice architects and engineers 4 years from discovery but not later than 10 years after substantial completion of contract or services.
- v. 2 years against ski areas for skiing, hang gliding, tramway.
- w. 2 years if involves a "crime of violence."



## Limitation of Time for Commencement of Action

(Also see Cases and Statutes)

(Medical Malpractice and Products suits have many exceptions)

See Footnote	TORT							CONTRACT		
	Personal Injuries	Property Damage	Wrongful Death	Libel	Slander	Assault & Battery	Medical Malpractice	Oral	Written	
									Under Seal	Not Under Seal
Maryland	3f	3f	3f	1f	1f-c	1f-j	3d	3b	12b	3b
Massachusetts	3	3	3	3	3	3	3	6	20	6b
Michigan	3	3	3	1	1	2	2e	6	6	6
Minnesota	6	6	3	2	2	2	3-4a	6i-c	6i	6i-c
Mississippi	6g	6g	6h	1	1	1	6g	3k	6g	6g
Missouri	5	5	3	2	2	2	2	5	5	5
Montana	3	2	3	2	2	2	3p	5	8	8
Nebraska	4	4	2	1	1	4	2	4	5n	5n
Nevada	2	3	2	2	2	2	1/3q	4	6	6
New Hampshire	3	3m	3	3	3	3	2	3o	20o	3o

- a. 4 years from the date the cause of action accrues for medical malpractice injury. M.S.A §541.076; 3 years from the date the cause of action accrues for medical malpractice leading to death. M.S.A. §573.02.
- b. For sale of goods: 4 years D.C. Code §28: 2-725; Md. CL§2-725; Mass G.L.C.106§2-725; IL. 810 ILCS §5/2-725.
- c. Barred by death of defendant. E&T. 8-103(b).
- d. Five years from time injury occurred; or three years from the date injury was discovered. CJP §5-109.
- e. 2 years after last treatment (tort before 10/1/86) or after error (tort after 10/1/86) and 6 months after discovered, but not later than 6 years after act or omission for tort arising after 10/1/86 unless specified conditions exist.
- f. Claim for unliquidated damages against county of municipality requires notice within 180 days. 12-309 (2002).
- g. For all actions occurring on or after July 1, 1989, general statute of limitations is changed from six to three years. Under UCC, breach of contract for sale must be commenced within 6 years after cause of action accrued. For medical malpractice actions occurring on or after July 1, 1998, general statute of limitation is 2 years from date of alleged conduct and no more than 7 years if conduct involved foreign object left during surgery or fraudulent concealment. If child is 6 or under then 2 years from 6th birthday or death; if minor without parent or guardian. All other written contracts within 3 years.
- h. Wrongful death action is limited by statute of limitation applicable to the tort resulting in wrongful death.
- i. 3 years for oral executory contracts; 6 years for all other contracts; 1 year for contracts of employment.
- j. Battery has separate 3 year limitation.
- k. All contracts except for employment. All oral contracts within 3 years; oral employment contracts 1 year.
- m. Action against administrator of estate must begin within one year of original grant of administration. R.S.A. §556:5
- n. Except "Uniform Comm. Code-Sales."
- o. Except "Uniform Comm. Code-Sales." NH R.S.A. 382-A:2-725.
- p. 3 years after date of injury or 3 years after plaintiff discovers, or should discover, injury; but no action commenced after 5 years from date of injury. M.C.A. §27-2-205.
- q. 3 years after date of injury or 1 year after patient discovers or reasonably should have discovered injury for actions after Oct. 1, 2002. NRS 41A.097.



## Limitation of Time for Commencement of Action

(Also see Cases and Statutes)

(Medical Malpractice and Products suits have many exceptions)

See Footnote	TORT							CONTRACT		
	Personal Injuries	Property Damage	Wrongful Death	Libel	Slander	Assault & Battery	Medical Malpractice	Oral	Written	
									Under Seal	Not Under Seal
New Jersey	2a	6a	2a	1	1	2	2	6	16	6
New Mexico	3	4	3	3	3	3	3	4	6	6
New York	3	3	2	1	1	1	2.5	6	6	6
North Carolina	3b	3b	2	1	1	3	3	3	10	3
North Dakota	6	6	2	2	2	2	2	6c	6c	6c
Ohio	2	2d	2	1	1	1	1e	6	15	15
Oklahoma	2f	2f	2	1	1	1	2g	3c	5	5
Oregon	2h	i	3j	1k	1k	2h	2m	6n	6n	6n
Pennsylvania	2	2	2	1	1	2	2	4p	4q	4p
Rhode Island	3	10	3-Mar	3r	1r	3	3	10	20	10

- a. 10 years-construction; time from treatment or reasonably discover-max. six yrs; 2 years neg. placement objects from discovery or reasonable discovery with no limitation within 3 years of placement of object.
- b. Except P.I. or P.D. from Realty Construction.
- c. Except "Uniform Comm. Code-Sales." 12A O.S. §2-725.
- d. Personal Property only; Four years Real Property. 10 years after completing design or construction of realty improvements. O.R.C. §2305.131.
- e. O.R.C. §2305.113 (one year after cause of action accrues subject to 4 year statute of repose).
- f. Period tolled in presence of fraud, misrepresentation, concealment of facts surrounding death.
- g. 2 years from date the plaintiff knew or should have known through the exercise of reasonable diligence, of the death, injury or condition complained of.
- h. ORS 12.110(1); ORS 12.115(1) (10 years-statute of repose).
- i. 6 years-action for waste or trespass upon or for interference with or injury to any interest of another in most real property. ORS 12.080(3). 6 years - action for taking, detaining or injuring personal property. ORS 12.080(4). 10 years - negligent injury to property (statute of repose). ORS 12.115(1).
- j. ORS 30.020(1)(a).
- k. ORS 12.120(2).
- m. ORS 12.110(4).
- n. ORS 12.080; ORS 12.080(1); ORS 42.115.
- p. See 42 Pa. C.S.A. §5525.
- q. Except until 1998 20 years statute remains in effect. 42 Pa. C.S.A. §5529.
- r. Action for libel or slander of deceased person shall be brought within 1 year of death.

## Limitation of Time for Commencement of Action

(Also see Cases and Statutes)

(Medical Malpractice and Products suits have many exceptions)

See Footnote	TORT							CONTRACT		
	Personal Injuries	Property Damage	Wrongful Death	Libel	Slander	Assault & Battery	Medical Malpractice	Oral	Written	
									Under Seal	Not Under Seal
South Carolina	3	3	3	2	2	3	2-3a	3	20b	3
South Dakota	3	6	3	2	2	2	2	6	20	6
Tennessee	1	3	1	1	6 Mos.	1	1c	6b	6b	6b
Texas	2	2	2	1	1	2	2	4	4	4
Utah	4d	3d	2d	1d	1d	1d	2e-d	4d	6d	6d
Vermont	3g	3	2	3	3	3	3f	6	8	6
Virginia	2h	5	2	1	1	2	2	3b	5b	5b
Washington	3i	3i	3i	2	2	2	1-3j	3	6	6
West Virginia	2k	2k	2m	1	1	2	2k	5	10	10
Wisconsin	3	6	3	2	2	2	3n	6	6	6
Wyoming	4	4	2	1	1	1	2o	8	10	10

- a. 3 years-acts; time from treatment or reasonably discover-max. six yrs; 2 years neg. placement objects from discovery or reasonable discovery with no limitation within 3 years of placement of object. (S.C. 15-3-545).
- b. Except "Uniform Comm. Code-Sales." S.C. 15-3-520; Tenn. Code Ann. §47-2-725; VA.Code 8.01-246, 8.2-725.
- c. 1 year from discovery-max. 3 years after act unless fraudulent concealment. Also see foreign object exception. Tenn. Code Ann. §29-26-116. Statute of limitations may also be tolled by the "legal disability statute" Tenn. Code Ann. §28-1-106. *See Calaway v. Schucker*, 193 S.W.3d 509 (Tenn. 2005).
- d. See U.C.A. §§78B-2-307 (Personal Injuries); -305 (Prop. Damage); -304 (Wrongful Death); -302 (Libel, Slander and Assault & Battery); 78B-3-404 (Medical Malpractice); §78B-2-307 (Oral Contracts); and 78B-2-309 (Written Contracts).
- e. 1 year from discovery for foreign object or because of fraudulent concealment by doctor.
- f. 3 years from incident or 2 years from discovery which ever occurs later but not more than 7 years from date of incident, if discovery of foreign object within body, 2 years from date of discovery.
- g. 1 year skiing, 6 years real property, Ionizing Radiation/Drugs: 3 years from date of discovery and max. of 20 years from date of injury.
- h. Includes breach of warranty.
- i. Discovery rule applies to certain types of claims including certain negligence claims, claims for breach of fiduciary duty and to claims of misrepresentation and fraudulent concealment. RCW 4.16.340 tolls the statute of limitations for claims of childhood sexual abuse.
- j. 1 year from discovery or 3 years from act, whichever time expires last, but not later than 8 years from act. In cases of minority or mental disability, RCW 4.16.190 tolls the statute of limitations.
- k. From time when plaintiff learns of, or by exercise of reasonable diligence should have learned of, defendant's neg. act or omissions.
- m. Period tolled in presence of fraud, misrepresentation, concealment of facts surrounding death.
- n. Or 1 year after discover, or when reasonable diligence would discover, but not more than 5 years from date of act or admission. Section 893.55. Wis. Stats. *But see Kohkne v. St. Paul Fire & Marine Ins. Co.*, 140 Wis. 2d 80, 410 N.W.2d 585 (1987).
- o. 2 years from act, or from discovery if not reasonably discoverable within 2 years. Some exceptions. *See* 1-3-107 WS.



## Limitation of Time for Commencement of Action

(Also see Cases and Statutes)

(Medical Malpractice and Products suits have many exceptions)

See Footnote	TORT							CONTRACT		
	Personal Injuries	Property Damage	Wrongful Death	Libel	Slander	Assault & Battery	Medical Malpractice	Oral	Written	
									Under Seal	Not Under Seal
Alberta	2n-y	2n-y	2y	2c-y	2y	2y	2y	2y	2y	2g
British Columbia	2*	2*	2	2	2	2	2*	6	6	6
Manitoba	2	2a	1b	2	2	2	2q	6	6h	6p
New Brunswick	2j	2j	2j	2c	2c	2	2	6	20	6
Newfoundland & Labrador	2	2	2	2s	2s	2	2x	6	6r	6
Nova Scotia	2e*	2e*	1*	6k*	1*	1*	2f*	6*	6u*	6*
Ontario	2	2	2	2†	2	**	2	2	2	2
Prince Edward Isle	2m	6	2	2	2	2	2t	6	6u*	6*
Quebec	3v	3d-v	3	1	1	3	3v	3	3	3
Saskatchewan	2i	2w	2	2	2	2z	2	2	2	2

\* Many exceptions—see Statutes and Cases. When not by motor vehicles than 6 years P.I. and P.D.

\*\* No specific limitation period as the period does not run while claimant is unable to pursue claim.

† Within 3 months of discovery if in newspaper or broadcast.

- a. Real property-6 years
- b. Trustee Act-2 years from death (Fatal Accident Act-2 years from death).
- c. 3 months if action against owner or publisher of newspaper or broadcasting station or any officer or employee. Notice, Provision must also be complied with where the action is against a newspaper, *see* Alberta Defamation Act R.S.A. 2000. c. D-7 §12 & 12.
- d. May be only 6 months under municipal law. (*See* Art. 585 Cities and Towns Act).
- e. For damages not by motor vehicle and formerly brought under “trespass on the case”—six years.
- f. As to those registered under Medical Act, Dental Act and employees and officers of hospitals.
- g. 1 year under contract of insurance.
- h. 2 years for P.D.
- i. 2 years If auto accident, then statute barred unless tort election filed.
- j. 6 years if not due to auto accident.
- k. Notice to newspaper or radio within 3 months of discovery-action within 6 months of discovery.
- m. 6 years if occasioned by motor vehicle.
- n. Many exceptions (shorter period) when dealing with municipal/provincial Governments.
- p. Land may be 10 years municipal/provincial Governments.
- q. Action must commence within 2 years from date services terminated. RSM 1987 c. M90
- r. Except actions on land or other specialty for which period is 10 years.
- s. Actions against proprietors, publishers or officials of newspapers or broadcasting stations shall be commenced with 4 months of discovery.
- t. Dentists-6 months; from date of treatment or discovery to maximum of 6 years
- u. Except actions on land or other specialty for which period is 20 years.
- v. In case of damages which appear progressively, prescription only begins from date damage appears for first time. (art. 2929 C.c.Q.). Psychological incapacity to initiate a suit may be a cause of suspension of prescription until that incapacity disappears or has stabilized. (for ex. *Gauthier v. Beaumont*, [1998] 2 S.C.R. 3)
- w. 1 year if damage caused by municipality, 6 years for environmental damages.
- x. Subject to discovery rule to maximum of 10 years from termination of services.
- y. 2 years from date of discovery to a maximum of 10 years after claim arose.
- z. No limitation in case of sexual misconduct, or when victim is a dependent of or living in intimate relationship with tortfeasor.

## United States Automobile Financial Responsibility Laws

See Footnote	When Accident Report Required			Policy Limits Required		
	Property Damage in Excess of	Personal Injury or Death	Time to File Report	Personal Injury Liability (Thousands)	Property Damage	Statute
Alabama	\$250	Yes	30 Days	25/50	\$25,000	§32-7-5, §32-7-22, §32-7A-4, §32-7-6
Alaska	\$2,000	Yes	Immediately*	50/100	\$25,000	A.S. 28.20.070; A.S. 28.35.080
Arizona	\$1,000	Yes	24 Hrs.	15/30	\$10,000	A.R.S. §28-4009 &; A.R.S. §28-667
Arkansas	\$1,000	Yes	30 Days	25/50	\$25,000	Ark. Code Ann. §§ 27-19-301, 27-19-713, 27-22-104
California	\$500	Yes	10 Days	15/30	\$5,000	V.C. §16000-16484
Colorado	\$1 (any property damage)	Yes	Immediately	25/50	\$15,000	C.R.S. §§10-4-620, 42-4-1602, 42-4-1603 & 42-4-1606
Connecticut	\$1,000	Yes	5 Days	20/40	\$10,000	C.G.S. 38a-335; 14-108a and 14-112 <i>et seq.</i>
Delaware	\$500	Yes	Immediately	15/30	\$5,000**	21 Del. C. §2902
District of Columbia	None	Yes	Immediately	25/50	\$10,000	D.C. Code; §31-2406
Florida	\$500	Yes	10 Days	10/20†	\$10,000†	F.S. 324.021; 324.051 ;324.151; 316.065; 316.066
Georgia	\$500	Yes	Immediately	25/50	\$25,000	O.C.G.A. §§ 33-7-11; 40-6-273***
Hawaii	\$3,000	Yes	Immediately	20	\$10,000	§431:10C-301
Idaho	\$1,500	Yes	Immediately	25/50	\$15,000	I.C. §§49-117, 1229 & 1305

Every State has a law requiring the filing of accident reports where the accident involves personal injury, or death, or property damage in excess of the amounts set forth in the table.

Each State requires that the owner of the vehicle and/or the driver: (1) deposit or exhibit financial responsibility for the damages from the accident, or file some type of satisfaction of the damages and (2) file proof of responsibility for any future accidents. Failure to satisfy these requirements usually results in suspension of license and/or registration.

Proof of Financial Responsibility may be given by filing a certificate of insurance of an insurance company licensed to do business in the state, in amounts required. See table above.

- \* (1) Immediately, by quickest means of communication, give notice of accident to local police dept., (accident within a municipality), or to Dept. of Pub. Safety (otherwise). (2) Written report within 10 days if accident within a municipality. (3) No written report if accident investigated by a peace officer.
- \*\* P.D. liability limits for damage to vehicles \$5,000 21-2902. But PD liability limits for non-vehicle property, \$10,000. 21:2118(a)(3).
- \*\*\* See also OCGA 40-9-2(5).
- † Minimum requirements can be satisfied by having a policy with coverage of at least \$30,000 for combined property damage and bodily injury liability for any one crash. F.S. 324.022.



## United States

### Automobile Financial Responsibility Laws

See Footnote	When Accident Report Required			Policy Limits Required		
	Property Damage in Excess of	Personal Injury or Death	Time to File Report	Personal Injury Liability (Thousands)	Property Damage	Statute
Illinois	\$250	Yes	10 Days†††	20/40	\$15,000	625ILCS 5/7-203
Indiana	\$1,000	Yes	10 Days	25/50	\$10,000	I.C. 9-25-2-3
Iowa	\$1,000	Yes	72 Hrs.	20/40	\$15,000	§§321.266; 321A.1(11)
Kansas	\$500	Yes	Immediate*	25/50	\$10,000	40-3107(e)
Kentucky	\$200	Yes	10 Days	25/50**	\$10,000	K.R.S.304.39-110
Louisiana	\$500	Yes	10 Days	10/20‡	\$10,000 ‡‡	32:861, 871,900
Maine	\$1,000	Yes	48 Hrs.	50/100	\$25,000***	29-A M.R.S.A. §1605
Maryland	None	Yes	15 Days	20/40	\$15,000	TR §20-107 TR §17-103
Massachusetts	\$1,000	Yes	5 Days	20/40	\$5,000	c.90§26, 34A-0
Michigan	\$400	Yes	Immediately	20/40	\$10,000	MCL 257.52
Minnesota	\$1,000	Yes	10 Days	30/60	\$10,000	MSA -65B.49
Mississippi	Repealed	Repealed	Repealed	25/50	\$25,000	§63-15-3, -11, -43
Missouri	\$500	Yes	30 Days	25/50	\$10,000	303.19
Montana	\$1,000	Yes	10 Days	25/50	\$10,000	M.C.A. §61-6-103; §61-7-109
Nebraska	\$1,000	Yes	10 Days	25/50	\$25,000	60-509 and 699
Nevada	\$750†	Yes	10 Days	15/30	\$10,000	N.R.S.485.185
New Hampshire	\$1,000	Yes	15 Days	25/50	\$25,000	R.S.A. 264:20 and 264:25
New Jersey	\$200	Yes	5 Days	15/30	\$5,000	R.S. 39:6A-3, 3.1
New Mexico	\$500	Yes	5 Days	25/50	\$10,000	66-5-221
New York	\$1,000	Yes	10 Days	25/50††	\$10,000	N.Y. Veh &Traf. Law §§605 and 341

\* Notice shall be given to nearest police authority by the quickest means of communication. A written report is required when requested by the Division of Motor Vehicles.

\*\* Either split limits liability coverage of \$25,000 for personal injuries to 1 person and \$50,000 for all personal injuries per accident \$10,000 for property damage per accident or \$60,000 in single limits liability coverage for all damages per accident.

\*\*\* In addition to 50/100/25 financial responsibility limits, ME law requires \$2,000 medical payments coverage. 29-A MRSA §1605-A.

† See N.R.S. 484.229

†† Additional \$50,000 for one death & \$100,000 more than one (N.Y. Veh. & Traf. Law §341).

††† Per 625 ILCS§5/11-401, immediately, but no later than one (1) hour after hospital discharge, in case of personal injury or death; where driver hospitalized or incapacitated but within 1 hour if not; per 625 ILCS §5/11-406, within 10 days where there is only property damage in excess of \$500.

‡ Effective January 1, 2010, limit for death or injury of one person is \$15,000 and limit for more than one person is \$30,000.

‡‡ Effective January 1, 2010, limit for damages to property of others is \$25,000.

## United States

### Automobile Financial Responsibility Laws

See Footnote	When Accident Report Required			Policy Limits Required			
	Property Damage in Excess of	Personal Injury or Death	Time to File Report	Personal Injury Liability (Thousands)	Property Damage	Statute	
	North Carolina	\$1,000	Yes	Immediate	30/60	\$25,000	NCGS 20-279.21
	North Dakota	\$1,000	Yes	Immediate	25/50	\$25,000	39-16.1
	Ohio	\$150*	Yes	5 Days*	12.5/25	\$7,500	R.C. 4509.51
	Oklahoma	\$300	Yes	Immediate	25/50	\$25,000	Okla. Stat. tit. 47, §7-103
	Oregon	\$1,500 ORS 811.720(2)	Yes ORS 811.720(1)	72 Hrs. ORS 811.725(1)(a)	25/50	\$20,000	ORS 806.070
	Pennsylvania	**	Yes	5 Days	15/30	\$5,000	75 Pa. C.S.A. §1702
	Rhode Island	\$500	Yes	10 Days	25/50	\$25,000	G.L. 31-31-7
	South Carolina	\$1,000	Yes	15 Days	15/30***	\$10,000	38-77-140
	South Dakota	\$1,000	Yes	Immediate	25/50	\$25,000	SDCL Ch. 32-35
	Tennessee	\$400†	Yes	20 Days	25/50	\$10,000	Tenn. Code Ann. §55-12-102 (C)(ii)
	Texas	\$1,000††	Yes	10 Days	25/50	\$25,000	T.T.C. §601.072
	Utah	\$1,000	Yes	10 Days	25/50	\$15,000	U.C.A. §31A-22-304 U.C.A. §41-6a-402
	Vermont	\$1,000	Yes	72 Hrs.	25/50	\$10,000	23 V.S.A. §§800, 1129
	Virginia	\$1,000	Yes	24 Hrs.	25/50	\$20,000	46.2-472
	Washington	\$700	Yes	4 Days	25/50	\$10,000	RCW 46.29.090
	West Virginia	\$500	Yes	Immediate	20/40	\$10,000	17D-4-2; 17C-4-7 17C-4-6
	Wisconsin	\$1,000†††	Yes	10 Days	25/50	\$10,000	344.15(1)
	Wyoming	\$500	Yes	10 Days	25/50	\$20,000	§31-9-102(a)(xi)

\* Requirement only applies to law enforcement agencies investigating accident involving personal injury, death or property damage in excess of \$400. O.R.C. §5502.11. Drivers no longer required to file accident report. O.R.C. §4509.06.

\*\* Pa. no longer sets a dollar amount on accident reports. A report is due when vehicle cannot be moved under its own power and therefore requires towing. 75 PA. C.S.A. §3741 *et seq.*

\*\*\* Coverage must offer minimum of \$1,000 benefits per person for medical expense & loss of income. S.C. Code 56-11-110.

† Written report must be filed if \$400 of property damage sustained; notice to law enforcement required if \$50 damage to person or property. Tenn. Code Ann. §§55-10-106(a)-107(a).

†† T.T.C. §550.061.

††† \$200 if government property (\$1000 for government vehicle), *See* §346.70 for additional conditions.



## Canada

### Automobile Financial Responsibility Laws

See Footnote	When Accident Report Required			Policy Limits Required		
	Property Damage in Excess of	Personal Injury or Death	Time to File Report	Personal Injury Liability (Thousands)	Property Damage	Statute
Alberta	\$1,000	Yes	Forthwith	200*	Included	R.S.A. 2000 T-6 and R.S.A. 2000 I-3
British Columbia	\$1000*; \$600**	Yes	24 Hrs.†	200	Included	R.S.B.C. 1996 Chap. 318
Manitoba	\$1,000††	Yes	7 Days	200	Included	RSM1987c.I40
New Brunswick†††	\$400	Yes	Immediate	200	Included	RSNB 1973 Ch. I-12
Newfoundland & Labrador	\$1,000	Yes	Immediate	200‡	Included	R.S.N. 1990 C. H-3 & R.S.N. 1990 C.A-22
Nova Scotia	\$500	Yes	24 Hrs.	200	Included	R.S.N.S. (1990) c.231, as amended
Ontario‡‡	\$1,000	Yes	Forthwith	200	Included	R.S.O. 1990, C. I.8 & R.S.O. 1990, C. H.8
Prince Edward Isle	\$1,000	Yes	24 Hrs.	200	Included	R.S.P.E.I. 1988, Chap. 1-4
Quebec	0	Yes	Immediate	50‡‡‡	Included	R.S.Q. ch. A-25‡‡‡‡
Saskatchewan‡‡	M	Yes	Forthwith	200	Included	R.S.S. 1978 c.A-35, as amended

Every province has a law requiring the filing of accident reports where the accident involves personal injury, or death, or property damage in excess of the amounts set forth in the table.

If the total loss exceeds the cover, the personal injury or death cases, or claims, have priority over the first \$30,000 of coverage and P.D. priority over \$5,000. (Ontario, Nova Scotia — \$95,000.)

\* In Alberta bodily injury or death claims have priority for the first 190,000.

\*\* Motor vehicle other than motorcycle

\*\*\* Motorcycle

† Or if outside a municipality or city, within 48 hrs.

†† Per Highway Traffic Act.

††† Where liability results from personal injury or death and P.D., personal injury or death claims have \$180,000 priority over P.D. claims; P.D. claims have \$20,000 priority over personal injury or death claims.

‡ Bodily injury or death claims have priority to the extent of \$180,000 over claims for P.D.

‡‡ Where the total loss exceeds the cover, the personal injury or death cases, or claims, have priority over the first \$190,000 of coverage and P.D. priority over \$10,000.

‡‡‡ When traveling out of Quebec, accidents with bodily injury are indemnified by 5AAQ (no-fault system) for specified amounts and on civil action is available to victims.

‡‡‡‡ S. 52 of the Automobile Insurance Act (R.S.Q., Chapter A-25) 2nd paragraph amended to read: “The Acts mentioned in the first paragraph apply as they are read on 1 January of the year for which the Societe makes the computation of net income”; Subsection 1 applies from 1 January 2005.