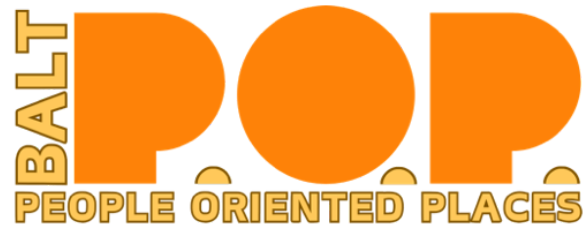


Bill: HB0466

Bill Title: Civil Actions - Motor Vehicle Accidents Involving Vulnerable Individuals - Comparative Negligence



Position: **Favorable**

Members of the House Judiciary Committee,

As a group which advocates for a built environment which is safe and convenient for all people, whether they are moving through that environment on foot, on a bicycle, in a wheelchair, via public transit, or in an automobile, we support HB0466.

Maryland's roadways are not safe, especially for vulnerable road users (VRUs). Despite the Vision Zero efforts of the past several years, those roadways have actually gotten less safe - for everyone.

This bill represents the thirteenth attempt in the past 30 years to change Maryland's prevailing contributory negligence standard - to some degree. Some of those bills were simply seeking to authorize a **study** of making such a change. Every single attempt has failed, with none of them making it out of committee.

It would appear that there are a lot of interests who would like to see a change made - and even more who don't.

This bill seeks to establish a comparative negligence standard, but only for VRUs. Past attempts at this have surfaced a number of arguments against.

It has been argued that VRUs don't deserve a special comparative negligence carve-out. Why does a pedestrian or cyclist being struck by an automobile stand out in comparison to someone being bitten by a dog? The answer is that VRUs find themselves in exceptionally vulnerable situations and, when struck, suffer exceptionally negative outcomes. An automobile generally weighs at least 10 times more than a pedestrian or cyclist, and depending on the type of automobile, it can be closer to 30 times or more. While the driver stands little chance of suffering any real injury when striking a VRU, the VRU stands a very high chance of suffering a life-altering injury. The risk to each party is completely disproportionate.

It has been argued that adopting a comparative negligence standard for VRUs will excuse or encourage careless behavior on the part of VRUs. Please consider that **the existing contributory negligence standard** sets a disproportionately **high** standard on the behavior of VRUs. In contrast, a comparative negligence standard would set an **equal** standard for VRUs

and drivers. As such, we don't understand why the existing standard does **not** raise concerns that the current standard excuses or encourages careless behavior on the part of **drivers**.

It has been argued that the current standard is working fine and there is no reason to fix it. Given all of the attempts over the course of the past 30 years, it would appear that it depends on who you are. For insurance companies, attorneys, and trucking company interests, it would appear that the current contributory negligence standard is a-OK. In contrast, for today's growing population of VRUs who increasingly find themselves at the mercy of a transportation system that does not adequately protect them from automobile traffic, the situation is dire. Despite the Vision Zero efforts of the past several years, VRU deaths and serious injuries are trending up, not down. The current situation is definitely not fine.

It has been argued that adopting a comparative negligence standard for VRUs won't make roads safer for those VRUs. By itself, that may or may not be true. But, it is a piece of the puzzle that is well worth embracing. The community of advocates who are fighting to make our transportation system safer for all of its users are pursuing that goal from a myriad of angles. This includes funding and support for protected infrastructure, speed monitoring systems to prevent speeding, authorization for transportation departments to easily reduce posted speed limits, encouraging the adoption of crash analysis practices, etc. There is no silver bullet solution here. As such, we need to work on placing multiple pieces, of which adopting a comparative negligence standard for VRUs is one.

It has been argued that a good lawyer will always get a good case brought by a plaintiff to the jury, regardless of the in-place contributory negligence standard. And what if the plaintiff does not have access to a "good lawyer"? How is a plaintiff to tell a "good" lawyer from a "bad" lawyer? What if the "good" lawyer the plaintiff hires turns out to be wrong and that jury deems them to be 1% at fault? Why not just skip all of that and adopt a comparative negligence standard that encourages both parties to settle their dispute in pre-trial proceedings?

It has been argued that VRUs don't deserve their own tort law - and that any change made should be all or nothing. History has shown that when this has been attempted, those attempts have failed. And so this VRU-specific carve-out approach is being pursued - which raises its own fierce opposition from entrenched powers.

It has been argued that adopting a comparative negligence standard for VRUs will result in chaos, a flood of litigation, rising insurance rates, and insurers leaving the state. All of this amounts to FUD - fear, uncertainty, and doubt. The fact of the matter is that Maryland is only one of five jurisdictions in the U.S. that still cling to the contributory negligence standard, the others being Alabama, North Carolina, Virginia, and Washington, D.C. [1] Why are the other 46 states able to make an **overall** comparative negligence standard (not just for VRUs) work and Maryland can't (simply for VRUs)?

VRUs are already vulnerable and at a disadvantage on our roadways. Let's make it so that they are no longer vulnerable and at a disadvantage in our courtrooms.

We hope the committee finds these points helpful and convincing and we urge its members to **vote in favor of HB0466**. Thank you for your efforts and the opportunity for us to testify on this legislation.

[BaltPOP - Baltimoreans for People-Oriented Places](#)

References:

[1] Justia. "Comparative & Contributory Negligence in Personal Injury Lawsuits". October 2024.  
<https://www.justia.com/injury/negligence-theory/comparative-contributory-negligence/>