



A. Statute of Limitations

- **Personal Injury** – Six years from the date of the accident – 14 M.R.S. §752
- **Wrongful Death** – Two years from the date of death, six years if death was homicide. 18-C M.R.S. §2-807
- **Personal Property** – Six years from the date of the accident – 14 M.R.S. §752
- **Med Pay** – Insurer has 30 days to pay or deny a claim. Med Pay only covers claims for medical costs incurred within one year of the date the injuries are sustained. 24-A M.R.S. §2436; 29 M.R.S. §1605-A
- **UM/UIM** – Six years after the cause of action accrues, however, certain insurance contracts can reduce the statute of limitations. 14 M.R.S. §752
- **Actions against Government Entities** – written notice must be provided within 365 days, lawsuit must be initiated within 2 years. The notice period was previously 180 days, but a 2019 amendment extended the notice period to 365 days. 14 M.R.S. §§8107, 8110.

B. Contributory Negligence

Maine uses a modified comparative fault standard. If the plaintiff is equally at fault, he or she may not recover. If the plaintiff is 49% at fault or less, he or she can recover damages, but the damages are diminished by the plaintiff's degree of fault. 14 M.R.S. §156.

C. Joint and Several Liability

In Maine, defendants are jointly and severally liable for the total damages. Defendants have the right to use special interrogatories to request the jury calculate the percentage of fault contributed by each defendant. 14 M.R.S. §156. Joint tortfeasors have an equitable, but not statutory, right to proportional contribution, as long as the tortfeasor has not acted intentionally. *See Hobbs v. Hurley*, 117 Me. 449 (1918); *Packard v. Whitten*, 274 A.2d 169 (Me. 1971).

D. Med Pay

Maine is an “at fault” state, and therefore any insurance policy issued in the state does not offer PIP coverage. A motor vehicle liability policy issued in Maine must provide coverage for medical payments for at least \$2,000.00 of medical costs incurred as a result of injuries sustained in an accident. The benefits only apply to medical costs incurred within one-year following the date the injuries are sustained. 29-A M.R.S. §1605-A.

To subrogate for medical payment benefits, an insurer must include a provision in the policy that: (1) requires the written approval of the insured; (2) provides that the insurer's subrogation right is subject to subtraction to account for the pro rata share of the insured's attorney's fees incurred in obtaining the recovery from another source; and (3) the provision is approved by the Superintendent of Insurance. 29-A M.R.S. §2910-A.

E. Serious Injury Threshold

As an "at fault" state, Maine does not require a plaintiff to meet any kind of threshold for injuries or damages before he or she files a lawsuit.

F. Non-economic Damages

Maine allows plaintiffs to recover punitive damages when there is clear and convincing evidence that the defendant acted with malice. See *Sebra v. Wentworth*, 2010 ME 21, 990A.2d 538 (2010) and *Tuttle v. Raymond*, 494 A.2d 1353, 1985 Me. LEXIS 744 (1985). In cases of wrongful death, the damages that can be awarded for loss of comfort, society, and companionship, including damages for emotional distress, are limited to \$750,000.00, and punitive damages awards are limited to \$250,000. 18-C M.R.S. §2-807.

G. Graves Amendment

Under the Graves Amendment, the owner of a leased or rented vehicle cannot be held vicariously liable for the negligent operation of that vehicle, despite Maine's statutory requirements set forth at 29A M.R.S. §1652 stating that an owner engaged in the business of renting motor vehicles is jointly and severally liable with the renter for damage caused by the driver's negligence. As long as the owner demonstrates, prima facie, that it was engaged in the business of renting or leasing motor vehicles and was not otherwise negligent, the owner/lessor will be dismissed from the litigation pursuant to the Graves Amendment. The United State District Court, District of Maine, held that 29A M.R.S. §1652 was "clearly" preempted by the Grave's Amendment, also known as SAFETEA-LU. See *Enter. Rent-A-Car Co. of Boston, LLC v. Maynard*, 2012 U.S. Dist. LEXIS 67021, 2012 WL 1681970 (D. Me 2012).

Pursuant to 49 USC § 30106, the Graves Amendment preempts all state statutory and common law to the extent those laws hold owners in the business of renting or leasing motor vehicles, vicariously liable for the negligence of drivers. 49 USC § 30106(a) states:

- (a) In general. – An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if –
 - (1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and
 - (2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).

H. Unfair Claims Practices

Pursuant to 24-A M.R.S. §2436, an insurer must either pay or deny an insured's claim for payment of benefits within 30 days after it receives proof of loss. If the insurer requests additional information regarding the claim, the 30 day period begins again once the insurer received the requested information. If an insurer fails to either pay or dispute a claim within 30 days, it is deemed overdue. If the insurer fails to pay the undisputed claim when due, the claim bears the interest rate of 1.5% per month after the due date, and the insurer will be liable to pay reasonable attorney's fees if its insured is successful in the claim.

An insured is also entitled to bring a civil action to recover damages, costs, attorney's fees, and interest, for the following acts 24-A M.R.S. §2436-A sets forth as being unfair claims settlement practices: (A) knowingly misrepresenting the terms of coverage, (B) failing within a reasonable time to acknowledge or review claims, (C) threatening to appeal from an arbitrator's award solely to compel the insured to accept a less favorable settlement, (D) failing to affirm or deny coverage within a reasonable time after investigating a claim, or (E) failing without just cause to promptly, fairly and equitably settle claims once liability has become reasonably clear.

