

# Left-Turning Vehicles – Are They Always At Fault?

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In 2017 there were 1,637 collisions in Edmonton caused by a vehicle turning left across the path of oncoming traffic. Unsafe left turns were the second most frequent cause of collisions in Edmonton in 2017, and 20% of those collisions resulted in injuries.<sup>1</sup>

Despite these statistics, it is a common misconception that when a vehicle makes a left-turn across oncoming traffic and collides with another vehicle, the left-turning vehicle is always at fault for the collision.

## What are the Legal Responsibilities of a Left-Turning Driver?

In Alberta, the law states that a driver must not turn left across the path of oncoming traffic unless the turn can be completed safely.<sup>2</sup> This means that a vehicle that is travelling straight through an intersection on a green light has the right-of-way over a vehicle attempting to turn left at the intersection. A driver who makes a left turn across oncoming traffic and hits or is hit by a vehicle with the right-of-way will have violated the rules of road by making an unsafe left turn.

## How do we decide who caused the collision?

In order to determine who must pay for an injured person's pain and suffering and possible financial losses, it must first be determined who is liable for causing the collision. The Police do not determine liability for a motor vehicle collision, but they may issue tickets to one or both drivers if either broke any laws before the collision. Getting a ticket does not necessarily mean that you are liable for causing the collision. However, a driver who was involved in a collision as a result of violating a traffic safety law must prove that the violation did not cause the collision, whether or not the driver was issued a ticket.<sup>3</sup>

Because making an unsafe left turn across oncoming traffic is both illegal and dangerous, the Courts typically start from the assumption that the left-turning

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<sup>1</sup> City of Edmonton, *Motor Vehicle Collisions 2017*, online <[https://www.edmonton.ca/transportation/PDF/2017MVC\\_AnnualReport.pdf](https://www.edmonton.ca/transportation/PDF/2017MVC_AnnualReport.pdf)>.

<sup>2</sup> *Use of Highway and Rules of the Road Regulation*, Alta Reg 304/2002, s 34(2).

<sup>3</sup> *Traffic Safety Act*, RSA 2000, c T-6 (*TSA*), s 185; *Bond v Mingo*, [1990] AJ No 622 (QL), 1990 CanLII 5550 (ABQB).

driver caused the collision.<sup>4</sup> However, there are two ways that a left-turning driver may avoid being held 100% liable for causing a collision, or even avoid being held liable at all:

1. Show that the other driver saw that the left-turning driver was making a left turn across oncoming traffic, and could have avoided the accident;<sup>5</sup> or
2. Show that the other driver also violated a traffic safety law, and that violation caused or contributed to the collision; for example, where the other driver was speeding or ran a red light.

## When might a left-turning driver not be 100% at fault?

A left-turning driver may avoid being found at fault for a collision if he or she can prove that the driver with the right-of-way had time to apply his or her brakes and avoid the collision.

Alternatively, left-turning drivers may avoid liability for a collision entirely where they can prove that the driver with the right-of-way also violated a traffic safety law. In cases where the left-turning driver is in the intersection and the light turns yellow and then red, the left-turning driver is required to clear the intersection. The courts have held that a left-turning driver who is clearing the intersection on a yellow or red light may not be liable at all for a collision with a vehicle that enters the intersection on a late yellow or a red light.<sup>6</sup>

There are also situations in which both drivers involved in a collision will be found at fault. In these situations, the insurance companies often decide to what extent each driver is liable for causing the collision. Split liability is typically expressed as a percentage, for example 50/50. This could occur, for example, where one driver made an unsafe left turn and struck a driver who had the right of way but was speeding.<sup>7</sup> Both drivers could also be held liable where one driver made an unsafe left turn, but the other driver entered the intersection on a yellow light when it was possible to stop safely before the intersection.<sup>8</sup>

As you can see, there are many instances in which a left-turning driver may not be found entirely at fault for a collision or may not be liable at all. Nevertheless, it is incumbent on left-turning drivers to take extra care when turning across the path of an oncoming vehicle.

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<sup>4</sup> *Eardley-Wilmot v Adamovskis*, 1990 CanLII 5479 (ABQB) at para 6.

<sup>5</sup> *Walker v Brownlee*, 1952 CanLII 328 (SCC).

<sup>6</sup> *Chan v Maguire*, 1998 ABCA 893.

<sup>7</sup> *Bond v Mingo*, 1990 CanLII 5550 (ABQB).

<sup>8</sup> *Tapia v Harrish*, 2005 ABQB 738.

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