

New York Enacts Significant Motor Vehicle Tort Reform

June 3, 2026

Media Contact

Erica Gianetti
Marketing & Communications Supervisor
erica.gianetti@mgclaw.com

As part of the FY 2026–2027 State Budget, New York enacted substantial reform affecting motor vehicle liability, comparative fault and recoverable damages in automobile accident litigation. Governor Hochul signed the legislation into law on May 27, 2026, and the amendments apply to all actions commenced on or after that date. The legislation represents one of the most significant changes to New York motor vehicle litigation in decades and is expected to materially affect pleading strategy, motion practice, damages exposure and the timing of statutory interest accrual.

1. **Modified Comparative Fault: New 51% Bar to Recovery**

New York has replaced its longstanding pure comparative fault system with a modified comparative fault framework for motor vehicle accident cases. Under the new law, a plaintiff who is found to be 51% or more at fault for the accident is barred from recovering damages. Previously, a plaintiff could recover damages regardless of degree of fault, subject only to a proportional reduction based upon comparative negligence. This amendment aligns New York with jurisdictions that preclude recovery where a plaintiff's culpable conduct exceeds that of the defendant or defendants.

2. **Elimination of the "90/180" Serious Injury Category**

The legislation eliminates the "90/180-day" category of serious injury under Insurance Law § 5102(d). Historically, plaintiffs frequently relied upon this category by alleging an inability to perform substantially all customary daily activities for at least 90 of the first 180 days following the accident. With the elimination of this category, plaintiffs seeking recovery for non-economic loss must satisfy one of the remaining statutory serious injury definitions. The amendment is expected to narrow threshold claims, particularly in cases involving soft-tissue or non-permanent injuries.

3. **\$100,000 Cap on Non-Economic Damages in Certain Non-Fatal Cases**

The legislation also imposes a \$100,000 cap on non-economic damages in certain non-death actions. The cap applies where the plaintiff was:

- Operating an uninsured motor vehicle and was responsible under Article 6 of the Vehicle and Traffic Law for maintaining insurance coverage, unless the lapse in coverage was less than 30 days;
- Operating a motor vehicle while impaired at the time of the accident and is subsequently convicted of the offense; or
- Operating a motor vehicle during the commission of a felony, or immediate flight therefrom, and is subsequently convicted of the felony.

The cap does not apply to wrongful death actions.

4. **Serious Injury Determinations Are Now Contingent Upon Fault**

McAngus Goudelock & Courie is a metrics-driven law built **Findings** to serve the insurance industry, their insureds and self-insureds. Past success does not indicate the likelihood of success in any future legal representation.

The reform establishes a mandatory sequencing requirement governing claims for non-economic loss. Under the new framework:

1. The trier of fact must first determine the party or parties at fault for the accident;
2. Only after fault is determined may the trier of fact determine whether the plaintiff sustained a serious injury; and
3. Liability for non-economic damages cannot be fixed until both determinations have been made.

This procedural restructuring may substantially alter existing litigation practice by limiting the ability to obtain early threshold determinations through dispositive motion practice.

5. **Potential Impact on Accrual of 9% Statutory Interest**

The amendments may also affect the timing of statutory interest accrual under the CPLR. Because serious injury determinations may no longer be resolved before fault determinations—and fault allocation may remain disputed until trial—issues relating to non-economic damages may persist significantly longer than under prior practice. This issue may be particularly significant in cases involving plaintiff-drivers, where comparative fault is contested. In such matters:

- Early summary judgment motions may no longer resolve threshold issues;
- Serious injury determinations may remain pending until trial; and
- Parties may dispute whether statutory interest should begin accruing before fault and serious injury findings have been made.

As courts begin interpreting and applying these amendments, significant litigation is expected concerning procedural sequencing, threshold motion practice and the timing of statutory interest accrual.