

# Guidelines for determining motor vehicle accident preventability

## Introduction

This guide can be used to help determine whether a driver could have taken additional precautions or steps to avoid the accident.

Accident investigators are expected to obtain as many facts as possible about an accident and to consider all the circumstances surrounding an accident before determining preventability. If needed, safety groups, trade associations, and organizations such as the National Safety Council can provide assistance in determining whether an accident was preventable.

The generally accepted definition of a preventable accident is one where the driver failed to do everything reasonable to avoid it. Drivers are expected to drive defensively. Which driver was primarily at fault, who received a traffic citation, or whether a claim was paid has little bearing on preventability. If there was anything the driver could have done to avoid the collision, the accident was preventable.

## General questions to consider

When judging accident preventability, there are some general questions to consider. Further on in this guide are some specific situations to consider.

1. Does the investigation indicate that the driver considers the rights of others, or is there evidence of poor driving habits that need to be changed?
2. Does the investigation indicate driver awareness? Such phrases as "I did not see," "I didn't think," "I didn't

expect," or "I thought" are signals indicating there probably was a lack of awareness, and the accident was preventable. An aware driver should think, expect, and see hazardous situations in time to avoid collisions.

3. Was the driver under any physical handicap that could have been contributory? Did the accident happen near the end of a long day or long drive? Did overeating contribute to fatigue? Did the driver get prior sufficient sleep? Is the driver's vision faulty? Was the driver feeling ill?
4. Was the vehicle defective without the driver's knowledge? Was a pre-trip inspection done, and would it have discovered the defect? A car which pulls to the left or right when the driver applies the brakes, faulty windshield wipers, and similar items are excuses, and a driver using them may be trying to evade responsibility. Sudden brake failure, loss of steering, or a blowout might be defects beyond the driver's ability to predict. However, pre-trip inspections and regularly scheduled maintenance should prevent most of these problems. If either of these are the cause of the accident, then the accident was probably preventable by the driver.
5. Could the driver have exercised better judgment by taking an alternate route through less congested areas to reduce the hazardous situations encountered?
6. Could the driver have done anything to avoid the accident?
7. Was the driver's speed safe for conditions?
8. Did the driver obey all traffic signals?
9. Was the driver's vehicle under control?

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# Specific Types of Accidents

## Intersection collisions

Accidents resulting from the driver's failure to yield the right-of-way, regardless of who has the right of way, as indicated by stop signs or lights, are deemed as preventable. The only exception to this is when the driver is properly proceeding through an intersection protected by lights or stop signs and the driver's vehicle is struck in the rear. Regardless of stop signs, stoplights, or right-of-way, a defensive driver recognizes that the right-of-way belongs to anyone who assumes it and should yield accordingly.

### *Questions to consider:*

1. Did the driver approach the intersection at a speed safe for conditions?
2. Was the driver prepared to stop before entering the intersection?
3. At a blind corner, did the driver pull out slowly, ready to apply the brakes?
4. Did the driver look both ways before proceeding through the intersection?

U-turns disrupt the normal smooth flow of traffic. Accidents which occur while this maneuver is being attempted by our driver are considered preventable.

## Sideswipes

Sideswipes are often preventable. Defensive drivers avoid getting into positions where they can be forced into another vehicle or vice versa. Defensive drivers continuously check for escape routes to avoid sideswipes. On two-lane roads, this means a driver should pass another vehicle only when absolutely certain that he or she can safely complete the pass. A driver should also be ready to slow down and let a passing vehicle that has failed to judge safe passing distance back into the lane.

A driver should avoid making sudden maneuvers that could force another vehicle to swerve. If a driver sideswipes a stationary object while taking evasive action to avoid striking another car or a pedestrian, the accident may be preventable. However, you should consider what the driver could have done or failed to do immediately preceding the evasive action to be in the position of no other options.

A driver is also expected to anticipate the actions of oncoming vehicles. Sideswiping an oncoming vehicle is often preventable. Again, evasive action, including leaving the

roadway, may be necessary if an oncoming vehicle crosses into the driver's lane.

Drivers are expected to allow other motorists to merge smoothly with them, and to merge smoothly on controlled access highways.

Sideswipes to doors of a vehicle that are opened when the vehicle is in motion are considered preventable.

Drivers are expected to be able to gauge distances properly when leaving a parking place and enter traffic smoothly.

### *Questions to consider:*

1. Did the driver look to the front and rear for approaching and overtaking traffic immediately before starting to pull away from the curb?
2. Did the driver signal before pulling away from the curb?
3. Did the driver look back rather than depend only upon rear-view mirrors?
4. Did the driver start into traffic only when this action would not require traffic to change its speed or direction in order to avoid his or her vehicle?
5. Did the driver yield the right-of-way before changing lanes?
6. Did the driver check to ensure all blind spots were clear before changing lanes or merging?
7. Did the driver use the appropriate signals before changing lanes or merging?

## Head-on collision

A head-on collision with a vehicle traveling in the wrong lane may be preventable if the driver could have pulled off the road or taken other evasive action to prevent a collision. However, the driver should never drive into the other lane to avoid an oncoming vehicle. If the driver swerved off the road to avoid a head-on collision, the accident is non-preventable. The driver in this case made a good defensive driving decision, choosing the lesser of two evils.

## Loss-of-control

Many loss-of-control accidents are associated with adverse weather or road conditions, such as rain, freezing rain, fog, ice, and snow, which all increase the hazard of travel. Oily

road film, which builds up during a period of good weather, causes an especially treacherous condition during the first minutes of a rainfall. Other times, loss of control is attributed to driving too fast to safely control the vehicle in curves or to react to unexpected road hazards. Loss of traction can be anticipated, and these accidents usually are preventable. Driving too fast for conditions is the most common reason why these types of accidents are preventable.

#### *Questions to consider:*

1. Was the driver operating at a safe speed considering weather and road conditions?
2. During inclement weather was the driver keeping at least twice the safe following distance used for dry pavement?
3. Were all actions gradual?
4. Was the driver anticipating ice on bridges, in gutter, ruts, and near the curb?
5. Was the driver alert for water, ice or snow in shaded areas, loose gravel, sand, ruts, etc.?
6. Did the driver keep out of other vehicle tracks or cross them at wide angles?
7. Did distraction or fatigue play a contributing role?
8. Was the driver alert for and prepared to respond safely to sudden hazards, such as other motorists?

### **Rear-end collisions**

Rear-end collisions are nearly always considered preventable. Defensive drivers are expected to control the space in front of their vehicles at all times, allowing sufficient following distance to slow down or stop in time to avoid a collision. Defensive drivers understand the need to remain alert for sudden changes in traffic conditions and for other motorists who may fail to yield the right-of-way. Rear-end accidents that result from driving too fast for traffic or road conditions are preventable. Inattentiveness caused by distraction or fatigue can also play a contributing role in preventable rear-end accidents.

#### *Questions to consider:*

1. Was the driver maintaining the appropriate following distance for the prevailing road, traffic, and weather conditions?

2. Was the driver alert and attentive? Did the driver's work and rest schedule during the previous days suggest that he or she was tired or fatigued?
3. Did the driver maintain adequate distance behind the vehicle while stopped at an intersection?
4. Did the driver give adequate consideration to the possibility that traffic would stop or slow down for an upcoming traffic light, stop sign, or to allow vehicles ahead to turn?
5. Does the driver understand stopping distance requirements, including the time required to perceive a hazard, react, and the time required for the vehicle to come to a full stop once the brakes have been applied?
6. Was the driver driving in a lane that would allow an escape route to avoid an accident?

### **Pedestrian collision**

All types of pedestrian accidents, including collisions with pedestrians coming from between parked cars, are usually considered preventable. There are few instances where the action of pedestrians is so unreasonable that the operator could not be expected to anticipate such an occurrence.

#### *Questions to consider:*

1. Did the driver go through congested areas expecting that pedestrians would step in front of the vehicle?
2. Was the driver prepared to stop?
3. Did the driver keep as much clearance between his or her vehicle and parked vehicles, as safety permitted?
4. Did the driver stop when other vehicles had stopped to allow pedestrians to cross?
5. Did the driver wait for the green light or stop for the caution light?
6. Was the driver aware of children and prepared to stop if one ran into the street?
7. Did the driver give all pedestrians the right-of-way?
8. Did the driver stop for a school bus that was stopped and properly signaling that passengers were loading or unloading?

## Animal collisions

Collisions with animals are normally preventable, unless the movement on the part of the animal was unusual and unexpected. Usually, these types of accident occur after dark in sparsely populated areas, which are well known to have deer and other animals present. Hence, often the inability to avoid collision is the result of overdriving the headlights; i.e., driving too fast for conditions.

## Backing a vehicle

Backing a vehicle into another vehicle, an overhead obstruction, or a stationary object is normally considered preventable. The fact that someone was directing the driver does not relieve the driver of the responsibility to back safely.

### *Questions to consider:*

1. Was it necessary to back?
  - a. Did the driver plan ahead so that he or she could have pulled forward out of the parking space instead of backing?
  - b. Was it necessary to drive into the narrow street, dead-end alley, or driveway from which he or she backed?
2. If the driver could not see where he or she was backing:
  - a. Did the driver try to get someone to guide him or her?
  - b. Did the driver look all around the vehicle before backing?
  - c. Did the driver back immediately after looking?
  - d. Did the driver use the horn while backing?
  - e. Were the back-up lights working?
  - f. Did the driver look to the rear without relying totally on the rear-view mirror?
  - h. If the distance was long, did the driver stop, get out, and look around occasionally?
3. Did the driver back slowly?
4. Did the driver judge clearances accurately, taking into consideration obstacles to the rear and sides of the vehicle as well as those above and underneath?

## Parked or stopped vehicle

Doors on the driver's parked vehicle that are damaged when opened on the traffic side are considered preventable accidents. The driver is responsible to see that the traffic side is

clear of traffic, before any doors on that side are opened.

In most cases, if the driver, while driving, strikes a parked vehicle's opening door, it is considered preventable. Usually the driver can see from a sufficient distance that the parked vehicle is occupied, and should therefore, be prepared to stop, should move closer to the center line or change lanes.

It is a driver's responsibility to park the vehicle so that it will remain stationary. A runaway type of accident is preventable. Blaming an accident on defective parking brakes or other holding devices are inadequate excuses. A good pre-trip inspection and maintenance program will eliminate most opportunities for this type of accident to result from mechanical failure.

An accident is non-preventable when the vehicle was legally and properly parked, or when properly stopped because of a highway patrol officer, a signal, stop sign, or traffic condition. Accidents occurring while the vehicle was double parked or in a "No Parking" zone are preventable.

### *Questions to consider:*

1. Was the vehicle parked on the proper side of the road?
2. Was it necessary to park there or was there a safer, only slightly less convenient place nearby?
3. Did the driver have to park on the traveled part of the highway, on the curve, or on the hill?
4. When required, did the driver warn traffic by emergency warning devices?
5. Did the driver park parallel to the curb?
6. Was it necessary to park so close to an alley or directly across from a driveway?

## Low-clearance obstacles

Obstructions can be avoided if the driver knows the height and width of the vehicle, pays attention to posted clearances, and takes the time to properly judge clearances.

## Shifting cargo and cargo damage

The accident should be considered preventable if the investigation shows a mechanical defect of which the driver was aware, a defect the driver should have found by inspecting the vehicle, or the driver caused by rough and abusive handling. It is a driver's responsibility to secure cargo properly to prevent damage to the cargo. Cargo should be safely stowed to prevent flying objects that can strike or distract the driver.