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Laws around crashes between bikes and cars unfair: lawyer

Cyclists must prove driver was negligent under current law

Joanne Abshire 2012/05/16

VANCOUVER (NEWS1130) - As Vancouver City Council is set to [consider more bike lanes](#) in the city, one lawyer feels laws need to be changed when it comes to determining who's at fault in accidents involving cyclists and drivers.

[David Hay](#) has worked on more than a hundred bike cases in his career, and they've all been tough battles for his two-wheeled clients. He says the law doesn't provide any protection to cyclists when they get into a crash with a car, because of a "reverse onus."

"If a cyclist is involved in a motor vehicle accident with a driver, the onus is on the cyclist to prove that the driver is negligent, and that it's a matter of civil law within the context of the common law of negligence," he explains.

Hay adds that since some of his clients come out of accidents with severe injuries, they are at a disadvantage when arguing their case, and that's a real problem.

"There have been several cases quite recently where plaintiffs have been unable to prove their cases, owing to a complete lack of memory, which is associated to head trauma, which I think is unfair," says Hay.

He argues the city's bike lanes improve safety, but what he's calling for is clarification on the rights and obligations of cyclists in the provincial [Motor Vehicle Act](#) to level the playing field.

Hay hopes BC can adopt a "reverse onus" like in Ontario, as he notes that is the only province in Canada where the cyclist doesn't have to prove the driver is at fault in a collision.



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