

Leaving stop sign, hit vehicle in through street

Crash example: A vehicle stops at a stop sign. When it proceeds onto the through street, it is hit by traffic on the through street.

The courts will generally rule that the vehicle leaving the stop sign is 100 per cent at fault. It should not leave the stop sign if the traffic on the through street is approaching so closely that it is an immediate hazard.

However, if the vehicle has left the stop sign in a lawful manner, any through traffic must then yield to it. Responsibility depends on whether the driver leaving the stop sign made a sufficient and substantial prior entry into the intersection and whether there was sufficient opportunity for either driver to avoid the collision. (*Motor Vehicle Act*, Section 175)



Motor Vehicle Act section(s): Section 175

Related B.C. court cases

- [Gautreau v. Hollige](#)
- [Fenster v. Yuen](#)
- [Twining v. Huang](#)
- [Goerzen v. Sjolie](#)

Who did the courts find at fault?

When ICBC assesses who is at fault for a crash, we do so based on how the courts have decided fault in previous, similar crashes.

The courts have the final say about who is at fault. Here is what the courts in British Columbia have decided in cases like the crash example above:

Gautreau v. Hollige

In the 2000 British Columbia Court of Appeal case of *Gautreau v. Hollige* (2000) BCCA 390, an accident occurred at the intersection of Drake Street and Burrard Street in Vancouver. One of the drivers was travelling east on Drake Street, where he stopped at the stop sign and then pulled onto Burrard Street, in an attempt to cross the northbound lanes and turn south. The other driver was headed north on Burrard Street and collided with the other vehicle as it crossed.

The court said that the throughway driver had failed to take any evasive action like steering or braking. However, it also said that the other driver was more at fault for entering the intersection when it was not safe to do so. Therefore, the driver who went through the stop sign after first stopping was 75 per cent at fault and the throughway driver was 25 per cent at fault.

Fenster v. Yuen

In the British Columbia Provincial Court case of *Fenster v. Yuen* [2003] BCPC 33, a driver was attempting to cross a four-lane highway. He had stopped at the stop sign on Manitoba Street, and was attempting to cross West 2nd Street. Drivers in the curb lane of West 2nd stopped, so he crossed in front of them. Two lanes of traffic from the east came around the bend. The driver waited for the traffic to pass then started to cross again when a car coming from the west hit him.

The judge said that a driver crossing a highway had to use great caution. The fact that the other driver who hit him had to brake suddenly was evidence that she was an immediate hazard. The crossing driver therefore had a duty to yield to her. There was no evidence that the driver who hit him was not paying attention. The driver trying to cross West 2nd Street was 100 per cent at fault.

Twining v. Huang

In the British Columbia Supreme Court case of *Twining v. Huang* [1999] WL 33193367, an accident occurred at the intersection of 64th Avenue and Angus Drive in Vancouver. One of the drivers was travelling north on Angus Drive, which had a stop sign at the intersection. The other driver was approaching from the east on 64th Avenue. The first driver had stopped at the stop sign on Angus Drive. The stopped driver then accelerated through the intersection. The other driver slammed on her brakes, but was unable to avoid the collision.

The judge said that there was no evidence that the through driver had failed to keep an adequate lookout; she was not speeding, and could not have avoided the accident. The stopped driver, the judge said, had a clear duty to look to her right to see if there were any approaching vehicles, which may have been an immediate hazard to her. If she had looked, the judge went on to say, she would have seen that the approaching vehicle was a threat. Therefore, the stopped driver had a duty to yield the right-of-way to the through driver, and was 100 per cent at fault.

Goerzen v. Sjolie

In the British Columbia Supreme Court case of *Goerzen v. Sjolie* [1995] WL 1743586, a fatal accident occurred in the District of Matsqui, in British Columbia. One of the drivers was in a car with her daughter and her daughter's friend. She

approached the intersection and was stopped at the stop sign for her direction of travel. A truck was approaching from the east. It was approximately 50 feet from the intersection when the car left the stop sign and slowly entered the intersection. The truck hit the car, spinning it around and throwing the driver out of the car, killing her. The truck was the dominant driver as it was on a through road. There was not enough evidence to say the truck had been speeding.

The judge said the truck was so close to the intersection that it was an immediate hazard. Therefore, the car should have yielded the right-of-way. The car was 100 per cent at fault.