FIRST REGULAR SESSION

SENATE BILL NO. 280

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCOTT, CAUTHORN, YECKEL, KLINDT, SHIELDS, CHILDERS, GRIESHEIMER, CLEMENS, CHAMPION, NODLER, DOLAN, VOGEL, FOSTER, RUSSELL, GROSS, LOUDON, KINDER AND GIBBONS.

Read 1st time January 16, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0410S.04I

AN ACT

To repeal sections 307.178, 383.500, 490.715, 509.290, 510.263, 512.020, 516.105, 537.067, 538.210, and 538.225, RSMo, and to enact in lieu thereof eighteen new sections relating to tort reform.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 307.178, 383.500, 490.715, 509.290, 510.263, 512.020, 516.105, 537.067, 538.210, and 538.225, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 307.178, 490.715, 508.075, 509.290, 510.263, 512.020, 512.099, 516.105, 537.067, 537.071, 538.210, 538.212, 538.224, 538.225, 538.227, 538.232, 538.234, and 538.236, to read as follows:

307.178. 1. As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles and trucks with a licensed gross weight of twelve thousand pounds or more.

2. Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this state, and persons less than eighteen years of age operating or riding in a truck, as defined in section 301.010, RSMo, on a street or highway of this state shall wear a properly

EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements; except that, a child less than four years of age shall be protected as required in section 210.104, RSMo. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection. The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this subsection shall not constitute probable cause for violation of any other provision of law.

3. Each driver of a motor vehicle transporting a child four years of age or more, but less than sixteen years of age, shall secure the child in a properly adjusted and fastened safety belt.

4. In any action to recover damages arising out of the ownership, common maintenance or operation of a motor vehicle, failure to wear a safety belt in violation of this section shall **[**not**]** be considered **as** evidence of comparative negligence. Failure to wear a safety belt in violation of this section may **also** be admitted to mitigate damages**[**, but only under the following circumstances:

(1) Parties seeking to introduce evidence of the failure to wear a safety belt in violation of this section must first introduce expert evidence proving that a failure to wear a safety belt contributed to the injuries claimed by plaintiff;

(2) If the evidence supports such a finding, the trier of fact may find that the plaintiff's failure to wear a safety belt in violation of this section contributed to the plaintiff's claimed injuries, and may reduce the amount of the plaintiff's recovery by an amount not to exceed one percent of the damages awarded after any reductions for comparative negligence**] of an insurer or party to the action**.

5. Each driver who violates the provisions of subsection 2 or 3 of this section is guilty of an infraction for which a fine not to exceed ten dollars may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this section. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for a violation of this section.

6. The department of public safety shall initiate and develop a program of public information to develop understanding of, and ensure compliance with, the provisions of this section. The department of public safety shall evaluate the effectiveness of this section and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

7. If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the driver and passengers are not in violation of this section.

490.715. 1. No evidence of collateral sources shall be admissible other than such evidence provided for in this section.

2. If prior to trial **any one or any combination of the following pays all or any part of a plaintiff's special damages:**

(1) A defendant **[**or his**];**

(2) Defendant's insurer or authorized representative**[**, or any combination of them, pays all or any part of a plaintiff's special damages,**];**

(3) Plaintiff's automobile or other liability insurer, medical, health, income-disability, individual or group, insurer;

(4) A workers' compensation insurer;

(5) Any state or federal income disability act, including the United States Social Security Act; or

(6) Plaintiff's employer or such employer's authorized representative;

the defendant may introduce evidence that some other person **or entity** other than the plaintiff has paid those amounts. The evidence shall not identify any person having made such payments.

3. **[**If a defendant introduces evidence described in subsection 2 of this section, such introduction shall constitute a waiver of any right to a credit against a judgment pursuant to section 490.710.

4.**]** This section does not require the exclusion of evidence admissible for another proper purpose.

508.075. 1. Each court of this state shall dismiss or transfer venue of any cause of action accruing outside the county in which the court is located if there is another forum with jurisdiction of the parties in which venue is proper and the trial can be more conveniently held taking into account the following factors:

(1) Place of accrual of the cause of action;

(2) Location of witnesses other than retained experts, wherever located, and health care providers whose principal office or facility is more than one hundred miles from the residence of the plaintiff;

(3) Residence of the parties which, in the case of a corporation, shall be the county in which the corporation's registered office or agent is located.

2. Any party, within ninety days after the last day allowed for the filing of that party's answer, may file a motion to transfer venue of the action to a more convenient forum within the state of Missouri or to dismiss the action so the plaintiff may file the action in a more convenient forum in another state based upon the convenience factors enumerated in this section. A party who files an action in a county other than a county where one or more of the defendants reside or where the cause of action accrued shall bear the burden of establishing that the forum in which the action is pending is more convenient than an alternative forum where one or more

of the defendants reside or where the cause of action accrued provided that jurisdiction and venue would be proper in such alternative forum. If the court finds that a more convenient forum exists, the court shall grant such motion and immediately transfer the action to a more convenient forum within the state of Missouri or dismiss the action without prejudice on the conditions enumerated in subsection 4 of this section so the plaintiff may file the action in a more convenient forum in another state.

3. In ruling on a motion pursuant to this section, the court shall not consider the residence of a defendant or the availability of an alternative forum for suing that defendant if the court finds from the pleadings and affidavits on file with the court that the plaintiff does not have a cause of action against that defendant.

4. If any defendant is voluntarily dismissed from the action prior to the case being submitted to the court or the jury for determination, any defendant remaining in the lawsuit may file a motion pursuant to this section, which motion shall be decided by the court before entering judgment in the pending cause based on the residence of the defendants who are still in the lawsuit.

5. If a court dismisses an action pursuant to subsection 2 of this section, the dismissal shall be under the following conditions:

(1) The plaintiff elects to file the action in another state having jurisdiction over the defendants within six months of the order of dismissal pursuant to this section, the defendants who were parties in the action at the time the dismissal was ordered pursuant to this section shall accept service of process from the court in such other state;

(2) If the plaintiff elects to file the action in another state within six months of the dismissal pursuant to this section and if the statute of limitations has run as to such action when the action is filed in such other state, the defendants who were parties in the action at the time the dismissal was ordered pursuant to this section shall waive the statute of limitations as a defense for that period of time the cause of action was pending in this state and for six months following dismissal with respect to all causes of action plead in the action that was dismissed pursuant to this section. If any defendant in an action that is dismissed pursuant to this section refuses to abide by the conditions of this subsection, the plaintiff's action shall be reinstated against that defendant only in the court in which the dismissal was ordered, or if the court in the other forum refuses to accept jurisdiction, the plaintiff may, within thirty days of the final order refusing jurisdiction in such other forum, reinstate the action in the court in which the dismissal was ordered pursuant to this section.

6. If a court transfers a case pursuant to this section, the clerk of the court

from which the transfer is granted shall immediately certify and transmit to the clerk of the court to which the transfer is ordered the originals of all papers filed in the case, together with copies of all orders entered in such case.

7. The trial court's ruling on a motion pursuant to this section may be immediately appealed by any party pursuant to section 512.020, RSMo.

509.290. 1. The following objections and other matters may be raised by motion whether or not the same may appear from the pleadings and other papers filed in the cause:

(1) Lack of jurisdiction over the subject matter;

(2) Lack of jurisdiction over the person;

(3) Improper venue;

(4) Insufficiency of process;

(5) Insufficiency of service of process;

(6) That plaintiff should furnish security for costs;

(7) That plaintiff has not legal capacity to sue;

(8) That there is another action pending between the same parties for the same cause in this state;

(9) That several claims have been improperly united;

(10) That the counterclaim or cross-claim is one which cannot be properly interposed in the action**;**

(11) That the action be transferred to a more convenient forum within the state or dismissed so it may be filed by the plaintiff in a more convenient forum in another state.

2. The grounds of any of the **[**above**]** **motions described in subsection 1 of this section** may be supplied by affidavit and may be controverted by opposing affidavit in accordance with subsection 4 of section 506.060, RSMo.

510.263. 1. All actions tried before a jury involving punitive damages shall be conducted in a bifurcated trial before the same jury if requested by any party.

2. In the first stage of a bifurcated trial, in which the issue of punitive damages is submissible, the jury shall determine liability for compensatory damages, the amount of compensatory damages, including nominal damages, and the liability of a defendant for punitive damages. Evidence of defendant's financial condition shall not be admissible in the first stage of such trial unless admissible for a proper purpose other than the amount of punitive damages.

3. If during the first stage of a bifurcated trial the jury determines that a defendant is liable for punitive damages, that jury shall determine, in a second stage of trial, the amount of punitive damages to be awarded against such defendant. Evidence of such defendant's net worth shall be admissible during the second stage of such trial. **No defendant shall be liable for punitive damages in any action in an amount in excess of three times the liability**

of that defendant for compensatory damages.

4. Within the time for filing a motion for new trial, a defendant may file a post-trial motion requesting the amount awarded by the jury as punitive damages be credited by the court with amounts previously paid by the defendant for punitive damages arising out of the same conduct on which the imposition of punitive damages is based. At any hearing, the burden on all issues relating to such a credit shall be on the defendant and either party may introduce relevant evidence on such motion. Such a motion shall be determined by the trial court within the time and according to procedures applicable to motions for new trial. If the trial court sustains such a motion the trial court shall credit the jury award of punitive damages by the amount found by the trial court to have been previously paid by the defendant arising out of the same conduct and enter judgment accordingly. If the defendant fails to establish entitlement to a credit under the provisions of this section, or the trial court finds from the evidence that the defendant's conduct out of which the prior punitive damages award arose was not the same conduct on which the imposition of punitive damages is based in the pending action, or the trial court finds the defendant unreasonably continued the conduct after acquiring actual knowledge of the dangerous nature of such conduct, the trial court shall disallow such credit, or, if the trial court finds that the laws regarding punitive damages in the state in which the prior award of punitive damages was entered substantially and materially deviate from the law of the state of Missouri and that the nature of such deviation provides good cause for disallowance of the credit based on the public policy of Missouri, then the trial court may disallow all or any part of the credit provided by this section.

5. The credit allowable under this section shall not apply to causes of action for libel, slander, assault, battery, false imprisonment, criminal conversation, malicious prosecution or fraud.

6. The doctrines of remittitur and additur, based on the trial judge's assessment of the totality of the surrounding circumstances, shall apply to punitive damage awards.

512.020. Any party to a suit aggrieved by any judgment of any trial court in any civil cause from which an appeal is not prohibited by the constitution, nor clearly limited in special statutory proceedings, may take his appeal to a court having appellate jurisdiction from any order granting a new trial, or order refusing to revoke, modify, or change an interlocutory order appointing a receiver or receivers, or dissolving an injunction, or from any interlocutory judgments in actions of partition which determine the rights of the parties, **or from any order granting or denying a motion to dismiss or to transfer an action on the grounds that a more convenient forum exists for the trial of the action,** or from any final judgment in the case or from any special order after final judgment in the cause; but a failure to appeal from any action or decision of the court before final judgment shall not prejudice the right of the party so failing to have the action of the trial court reviewed on an appeal taken from the final

judgment in the case.

512.099. 1. The supersedeas bond that an appellant is required to post to stay execution on a judgment during the period an appeal is pending shall be determined in accordance with applicable provisions of the Missouri statutes and court rules, except that the supersedeas bond shall not exceed twenty-five million dollars regardless of the value of the judgment.

2. Notwithstanding subsection 1 of this section, if the appellee proves by a preponderance of the evidence that the appellant is purposefully dissipating assets outside the ordinary course of business to avoid payment of the judgment, the court may enter such orders as are necessary to protect the appellee, including a requirement that a bond be posted equal to the full amount of the judgment.

516.105. All actions against physicians, hospitals, dentists, registered or licensed practical nurses, optometrists, podiatrists, pharmacists, chiropractors, professional physical therapists, and any other entity providing health care services and all employees of any of the foregoing acting in the course and scope of their employment, for damages for malpractice, negligence, error or mistake related to health care shall be brought within two years from the date of occurrence of the act of neglect complained of, except that:

(1) In cases in which the act of neglect complained of is introducing and negligently permitting any foreign object to remain within the body of a living person, the action shall be brought within two years from the date of the discovery of such alleged negligence, or from the date on which the patient in the exercise of ordinary care should have discovered such alleged negligence, whichever date first occurs; and

(2) In cases in which the act of neglect complained of is the negligent failure to inform the patient of the results of medical tests, the action for failure to inform shall be brought within two years from the date of the discovery of such alleged negligent failure to inform, or from the date on which the patient in the exercise of ordinary care should have discovered such alleged negligent failure to inform, whichever date first occurs; except that, no such action shall be brought for any negligent failure to inform about the results of medical tests performed more than two years before August 28, 1999; and

(3) In cases in which the person bringing the action is a minor less than **[**eighteen**] six** years of age, such minor shall have until his or her **[**twentieth**] eighth** birthday to bring such action.

In no event shall any action for damages for malpractice, error, or mistake be commenced after the expiration of ten years from the date of the act of neglect complained of **[**or for ten years from a minor's twentieth birthday, whichever is later**]**.

537.067. **[**1. In all tort actions for damages, in which fault is not assessed to the plaintiff, the defendants shall be jointly and severally liable for the amount of the judgment rendered

against such defendants.

2. In all tort actions for damages in which fault is assessed to plaintiff the defendants shall be jointly and severally liable for the amount of the judgment rendered against such defendants except as follows:

(1) In all such actions in which the trier of fact assesses a percentage of fault to the plaintiff, any party, including the plaintiff, may within thirty days of the date the verdict is rendered move for reallocation of any uncollectible amounts;

(2) If such a motion is filed the court shall determine whether all or part of a party's equitable share of the obligation is uncollectible from that party, and shall reallocate any uncollectible amount among the other parties, including a claimant at fault, according to their respective percentages of fault;

(3) The party whose uncollectible amount is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant on the judgment;

(4) No amount shall be reallocated to any party whose assessed percentage of fault is less than the plaintiff's so as to increase that party's liability by more than a factor of two;

(5) If such a motion is filed, the parties may conduct discovery on the issue of collectibility prior to a hearing on such motion;

(6) Any order of reallocation pursuant to this section shall be entered within one hundred twenty days after the date of filing such a motion for reallocation. If no such order is entered within that time, such motion shall be deemed to be overruled;

(7) Proceedings on a motion for reallocation shall not operate to extend the time otherwise provided for post-trial motion or appeal on other issues.

Any appeal on an order or denial of reallocation shall be taken within the time provided under applicable rules of civil procedure and shall be consolidated with any other appeal on other issues in the case.

3. This section shall not be construed to expand or restrict the doctrine of joint and several liability except for reallocation as provided in subsection 2.**] In all tort actions for damages, a defendant may not be jointly or severally liable for more than the percentage of the judgment for which fault is attributed to such defendant by the trier of fact.**

537.071. In all tort actions for damages in which damages for noneconomic loss or injury may be awarded, the total of such damages shall not exceed the sum of two hundred fifty thousand dollars. As used in this section, noneconomic loss or injury shall mean damages arising from nonpecuniary harm including, without limitation, pain, suffering, mental anguish, inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life, and loss of consortium but shall not include punitive damages.

538.210. 1. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, no plaintiff shall recover more than **[**three**]** **two** hundred fifty thousand dollars **[**per occurrence**]** for noneconomic damages from any one defendant as defendant is defined in subsection 2 of this section.

2. "Defendant" for purposes of sections 538.205 to 538.230 shall be defined as:

(1) A hospital as defined in chapter 197, RSMo, and its employees and physician employees who are insured under the hospital's professional liability insurance policy or the hospital's self-insurance maintained for professional liability purposes;

(2) A physician, including his nonphysician employees who are insured under the physician's professional liability insurance or under the physician's self-insurance maintained for professional liability purposes;

(3) Any other health care provider having the legal capacity to sue and be sued and who is not included in subdivisions (1) and (2) of this subsection, including employees of any health care providers who are insured under the health care provider's professional liability insurance policy or self-insurance maintained for professional liability purposes.

3. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, where the trier of fact is a jury, such jury shall not be instructed by the court with respect to the limitation on an award of noneconomic damages, nor shall counsel for any party or any person providing testimony during such proceeding in any way inform the jury or potential jurors of such limitation.

4. **[**The limitation on awards for noneconomic damages provided for in this section shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021, RSMo.

5.**]** Any provision of law or court rule to the contrary notwithstanding, an award of punitive damages against a health care provider governed by the provisions of sections 538.205 to 538.230 shall be made only upon a showing by a plaintiff that the health care provider demonstrated willful, wanton or malicious misconduct with respect to his actions which are found to have injured or caused or contributed to cause the damages claimed in the petition.

538.212. 1. Any physician licensed pursuant to chapter 334, RSMo, or dentist licensed pursuant to chapter 332, RSMo, or hospital, or employee of a hospital as defined in section 197.020, RSMo, who renders any care or assistance in a hospital,

shall not beheld liable for more than fifty thousand dollars in civil damages, exclusive of interest computed from the date of judgment, to or for the benefit of any claimant arising out of any act or omission in rendering that care or assistance when:

(1) The care or assistance is rendered in a hospital that has been designated as a trauma center pursuant to section 190.241, RSMo;

(2) The care or assistance rendered is necessitated by a traumatic injury demanding immediate medical attention, for which the patient enters the hospital through its emergency room or trauma center; and

(3) The care or assistance is rendered in good faith and in a manner not amounting to gross negligence or reckless, willful, or wanton conduct.

2. The limitation on liability provided pursuant to this section does not apply to any act or omission in rendering care or assistance which:

(1) Occurs after the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient, unless surgery is required as a result of the emergency within a reasonable time after the patient is stabilized, in which case the limitation on liability provided by subsection 1 of this section applies to any act or omission in rendering care or assistance which occurs before the stabilization of the patient following the surgery; or

(2) Is unrelated to the original traumatic injury.

3. If:

(1) A physician or dentist provides follow-up care to a patient to whom he or she rendered care or assistance pursuant to subsection 1 of this section;

(2) A medical condition arises during the course of the follow-up care that is directly related to the original traumatic injury for which care or assistance was rendered pursuant to subsection 1 of this section; and

(3) The patient files an action for damages based on the medical condition that arises during the course of the follow-up care, there is a rebuttable presumption that the medical condition was the result of the original traumatic injury and that the limitation on liability provided by subsection 1 of this section applies with respect to the medical condition that arises during the course of the follow-up care.

4. For the purposes of this section:

(1) "Reckless, willful, or wanton conduct", as it applies to a person to whom subsection 1 of this section applies, shall be deemed to be that conduct which the person knew or should have known at the time he or she rendered the care or assistance would be likely to result in injury so as to affect the life or health of another person, taking into consideration to the extent applicable:

(a) The extent or serious nature of the prevailing circumstances;

(b) The lack of time or ability to obtain appropriate consultation;

(c) The lack of a prior medical relationship with the patient;

(d) The inability to obtain an appropriate medical history of the patient; and

(e) The time constraints imposed by coexisting emergencies;

(2) "Traumatic injury", any acute injury which, according to standardized criteria for triage in the field, involves a significant risk of death or the precipitation of complications or disabilities.

538.224. 1. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, no attorney shall contract for, charge, or collect a contingent fee in excess of the following amounts:

(1) Thirty-three percent of the first fifty thousand dollars of damages;

(2) Twenty-five percent of the next fifty thousand dollars of damages;

(3) Fifteen percent of the next five hundred thousand dollars of damages; and

(4) Ten percent of any amount of damages exceeding six hundred thousand dollars.

2. In no case shall an attorney collect fees, charges, or any other costs which in the aggregate total more than thirty-three percent of the total damages.

538.225. 1. In any action against a health care provider for damages for personal injury or death on account of the rendering of or failure to render health care services, the plaintiff or his attorney shall file an affidavit with the court stating that he has obtained the written opinion of a **[**legally qualified**]** health care provider which states that the defendant health care provider failed to use such care as a reasonably prudent and careful health care provider would have under similar circumstances and that such failure to use such reasonable care directly caused or directly contributed to cause the damages claimed in the petition.

2. **The health care provider who offers such opinion shall be licensed to practice the same health care discipline as the defendant health care provider, and shall be actively practicing the same specialty within that discipline as does the defendant health care provider.** The affidavit shall state the qualifications of such health care providers to offer such opinion.

3. A separate affidavit shall be filed for each defendant named in the petition.

4. Such affidavit shall be filed no later than ninety days after the filing of the petition unless the court, for good cause shown, orders that such time be extended.

5. If the plaintiff or his attorney fails to file such affidavit the court **[**may**]** **shall**, upon motion of any party, dismiss the action against such moving party without prejudice.

538.227. 1. The portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering,

or death of a person and made to that person or to the family of that person shall be inadmissible as evidence of an admission of liability in a civil action. A statement of fault, however, which is part of, or in addition to, any of the provisions of this subsection shall not be inadmissible pursuant to this section.

2. For the purposes of this section:

(1) "Benevolent gestures", actions which convey a sense of compassion or commiseration emanating from humane impulses;

(2) "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, lifetime partner or significant other, adopted children of a parent, or spouse's parents of an injured party.

538.232. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, the court shall award court costs and reasonable attorney's fees to the prevailing party to be paid by the nonprevailing party or parties. If more than one party is responsible for such costs and fees, such costs and fees shall be equitably apportioned by the court among the responsible parties.

538.234. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services in which punitive or exemplary damages are sought, punitive damages shall not be awarded by the trier of fact unless it is established by clear and convincing evidence that the actions of the tortfeasor against whom punitive damages are sought were outrageous because of the tortfeasor's evil motive or reckless indifference to the rights of the plaintiff. Punitive damage shall not be awarded by the trier of fact in an amount exceeding two times the total actual damages assessed by the trier of fact. Where the trier of fact is the jury, such jury shall not be instructed by the court with respect to the limitation on an award of punitive damages, nor shall counsel for any party nor any person providing testimony during such proceeding in any way inform the jury or potential jurors of such limitations. Any punitive awards in excess of the limit shall be reduced by the court to the maximum amount of the limitation.

538.236. 1. No health carrier as defined in section 376.1350, RSMo, shall require as a condition for contracting or recontracting with a physician licensed pursuant to chapter 334, RSMo, that the physician possess professional liability insurance coverage.

2. No hospital as defined in section 197.020, RSMo, shall require as a condition for granting or renewing hospital staff privileges to a physician licensed pursuant to chapter 334, RSMo, that the physician possess professional liability insurance.

[383.500. 1. Beginning on January 1, 1987, any physician or surgeon who is on

the medical staff of any hospital located in a county which has a population of more than seventy-five thousand inhabitants shall, as a condition to his admission to or retention on the hospital medical staff, furnish satisfactory evidence of a medical malpractice insurance policy of at least five hundred thousand dollars. The provisions of this section shall not apply to physicians or surgeons who:

(1) Limit their practice exclusively to patients seen or treated at the hospital; and

(2) Are insured exclusively under the hospital's policy of insurance or the hospital's self-insurance program.

2. This section shall not in any way limit or restrict the authority of any hospital in this state to issue rules or regulations requiring physicians or other health care professionals to carry minimum levels of professional liability insurance as a condition of membership on a hospital medical staff.**]**