

FIRST REGULAR SESSION

SENATE BILL NO. 211

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time February 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1299S.011

AN ACT

To repeal section 537.067, RSMo, and to enact in lieu thereof one new section relating to liability for damages in tort actions.

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

Section A. Section 537.067, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 537.067, to read as follows:

537.067. 1. In all tort actions for damages, [if a defendant is found to
2 bear fifty-one percent or more of fault, then such defendant shall be jointly and
3 severally liable for the amount of the judgment rendered against the defendants.
4 If a defendant is found to bear less than fifty-one percent of fault, then the
5 defendant shall only be responsible for the percentage of the judgment for which
6 the defendant is determined to be responsible by the trier of fact; except that, a
7 party is responsible for the fault of another defendant or for payment of the
8 proportionate share of another defendant if any of the following applies:

9 (1) The other defendant was acting as an employee of the party;

10 (2) The party's liability for the fault of another person arises out of a duty
11 created by the federal Employers' Liability Act, 45 U.S.C. Section 51.

12 2. The defendants shall only be severally liable for the percentage of
13 punitive damages for which fault is attributed to such defendant by the trier of
14 fact.

15 **3.] the liability of each defendant for compensatory or punitive**
16 **damages shall be several only and shall not be joint. Each defendant**
17 **shall be liable only for the amount of damages allocated to that**
18 **defendant in direct proportion to that defendant's percentage of fault.**
19 **A separate several judgment shall be rendered against that defendant**

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

20 for that amount.

21 2. To determine the amount of judgment to be entered against
22 each defendant, the court shall multiply the total amount of damages
23 recoverable by the plaintiff with regard to each defendant by the
24 percentage of each defendant's fault. That amount shall be the
25 maximum recoverable against that defendant.

26 3. In assessing percentages of fault, the trier of fact shall
27 consider the fault of all persons or entities who contributed to the
28 alleged injury or damages, regardless of whether the person or entity
29 was or could have been named as a party to the suit.

30 4. Negligence or fault of a nonparty may be considered if the
31 plaintiff entered into a settlement agreement with the nonparty or if
32 the defending party gives notice before trial, in accordance with
33 requirements established by court rule, that a nonparty was wholly or
34 partially at fault. Assessments of percentages of fault of nonparties
35 shall be used only in the determination of the percentage of fault of
36 named parties. Where fault is assessed against nonparties pursuant to
37 this section, findings of fault shall not subject any nonparty to liability
38 in any action or be introduced as evidence of liability in any action.

39 5. In all tort actions, no party may disclose to the trier of fact the impact
40 of this section.

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