

SENATE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 460

AN ACT

To repeal sections 507.040, 507.050, 508.010, and 537.762, RSMo, and to enact in lieu thereof four new sections relating to venue requirements in civil actions.

---

---

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Sections 507.040, 507.050, 508.010, and 537.762,  
2 RSMo, are repealed and four new sections enacted in lieu thereof,  
3 to be known as sections 507.040, 507.050, 508.010, and 537.762,  
4 to read as follows:

5           507.040. 1. All persons may join in one action as  
6 plaintiffs if they assert any right to relief jointly, severally,  
7 or in the alternative in respect of or arising out of the same  
8 transaction, occurrence, or series of transactions or occurrences  
9 and if any question of law or fact common to all of them will  
10 arise in the action. All persons may be joined in one action as  
11 defendants if there is asserted against them jointly, severally,  
12 or in the alternative, any right to relief in respect of or  
13 arising out of the same transaction, occurrence, or series of  
14 transactions or occurrences and if any question of law or fact  
15 common to all of them will arise in the action. A plaintiff or  
16 defendant need not be interested in obtaining or defending

1 against all the relief demanded. Judgment may be given for one  
2 or more of the plaintiffs according to their respective rights to  
3 relief, and against one or more defendants according to their  
4 respective liabilities.

5 2. The court may make such orders as will prevent a party  
6 from being embarrassed, delayed, or put to expense by the  
7 inclusion of a party against whom he asserts no claim and who  
8 asserts no claim against him, and may order separate trials or  
9 make other orders to prevent delay or prejudice.

10 3. In addition to the requirements of subsection 1 of this  
11 section, in any civil action in which there is a count alleging a  
12 tort, two or more plaintiffs may be joined in a single action  
13 only if each plaintiff could have separately filed an action in  
14 that venue, independent of the claims of any other plaintiff. Any  
15 plaintiff that cannot establish proper venue independent of the  
16 claims of any other plaintiff shall be deemed misjoined. If the  
17 plaintiff was first injured outside of the state of Missouri, two  
18 or more defendants may be joined in a single action if the  
19 plaintiff can establish proper venue against each defendant  
20 individually, and if proper venue cannot be established against  
21 any such defendant individually, that defendant shall be deemed  
22 misjoined. Notwithstanding the requirements of this subsection,  
23 two or more plaintiffs or defendants may be joined in one action  
24 in a venue where one or more claims are properly pending where  
25 all parties waive objections to venue.

26 4. Notwithstanding the provisions of subsection 3 of this  
27 section to the contrary, two or more plaintiffs, each with  
28 principal places of residence in the state of Missouri on the

1 date the plaintiffs were first injured, who were first injured  
2 outside of the state of Missouri as a result of a single  
3 automobile accident whereby the injuries occurred at the same  
4 time and place and neither a corporate defendant's registered  
5 agent nor an individual defendant's principal place of residence  
6 is in the state of Missouri, may join their claims in any venue  
7 proper for at least one plaintiff, if the plaintiffs otherwise  
8 satisfy the requirements of this section.

9 507.050. 1. Misjoinder of parties is not ground for  
10 dismissal of an action. Parties may be dropped or added by order  
11 of the court on motion of any party or of its own initiative at  
12 any stage of the action and on such terms as are just. Any claim  
13 against a party may be severed and proceeded with separately. If  
14 a plaintiff or defendant is deemed misjoined under subsection 3  
15 of section 507.040, such plaintiff or defendant shall be severed  
16 from the action and the claims shall be transferred to a county  
17 in which venue exists. If there is no county in Missouri in  
18 which venue exists, the claims shall be dismissed without  
19 prejudice. For actions currently pending as of the effective  
20 date of this section, a plaintiff whose claim has been found to  
21 have no county in Missouri in which venue exists, may proceed in  
22 such venue where such claim was dismissed without prejudice only  
23 when the court finds that the claim:

24 (1) Was filed in the Missouri court within the statute of  
25 limitations applicable to the claim;

26 (2) Has no proper venue in the state of Missouri; and

27 (3) Cannot be refiled in the proper state because of said  
28 state's lack of savings statute or similar law.

1 Nothing in this subsection shall be deemed to create jurisdiction  
2 where no jurisdiction otherwise exists.

3 2. A motion to drop or add parties may be made at the same  
4 time as other motions provided for in section 509.290, and if so  
5 made, the provisions of section 509.340 with reference to the  
6 consolidation of motions and waiver of objections shall also  
7 apply. If said motion is made at any other time, the hearing and  
8 determination thereof shall not delay the trial. Objections on  
9 account of misjoinder or nonjoinder of parties may also be raised  
10 by answer or reply.

11 508.010. 1. As used in this section, "principal place of  
12 residence" shall mean the county which is the main place where an  
13 individual resides in the state of Missouri. There shall be a  
14 rebuttable presumption that the county of voter registration at  
15 the time of injury is the principal place of residence. There  
16 shall be only one principal place of residence.

17 2. In all actions in which there is no count alleging a  
18 tort, venue shall be determined as follows:

19 (1) When the defendant is a resident of the state, either  
20 in the county within which the defendant resides, or in the  
21 county within which the plaintiff resides, and the defendant may  
22 be found;

23 (2) When there are several defendants, and they reside in  
24 different counties, the suit may be brought in any such county;

25 (3) When there are several defendants, some residents and  
26 others nonresidents of the state, suit may be brought in any  
27 county in this state in which any defendant resides;

28 (4) When all the defendants are nonresidents of the state,

1 suit may be brought in any county in this state.

2 3. The term "tort" shall include claims based upon improper  
3 health care, under the provisions of chapter 538.

4 4. Notwithstanding any other provision of law, in all  
5 actions in which there is any count alleging a tort or seeking  
6 recovery for bodily injury, personal injury, wrongful death, or  
7 property damage under the terms of an insurance contract, and in  
8 which the plaintiff or plaintiff's decedent was first injured or  
9 the property damaged in the state of Missouri, venue shall be in  
10 the county where the plaintiff or the plaintiff's decedent was  
11 first injured or the property damaged by the [wrongful] acts or  
12 [negligent] conduct alleged in the action.

13 5. Notwithstanding any other provision of law, in all  
14 actions in which there is any count alleging a tort and in which  
15 the plaintiff was first injured outside the state of Missouri,  
16 venue shall be determined, as to each defendant individually, as  
17 follows:

18 (1) If the defendant is a corporation, then venue shall be  
19 in any county where a defendant corporation's registered agent is  
20 located or, if the plaintiff's principal place of residence was  
21 in the state of Missouri on the date the plaintiff was first  
22 injured, then venue may be in the county of the plaintiff's  
23 principal place of residence on the date the plaintiff was first  
24 injured;

25 (2) If the defendant is an individual, then venue shall be  
26 in any county of the individual defendant's principal place of  
27 residence in the state of Missouri or, if the plaintiff's  
28 principal place of residence was in the state of Missouri on the

1 date the plaintiff was first injured, then venue may be in the  
2 county containing the plaintiff's principal place of residence on  
3 the date the plaintiff was first injured;

4 (3) Notwithstanding any other provision of this subsection,  
5 if the defendants include any individual whose conduct at issue  
6 in the lawsuit was in the course and scope of his or her  
7 employment with a corporation, venue as to such individual shall  
8 not be determined under subdivision (2) of this subsection, but  
9 instead shall be the same as the venue of the corporation;

10 [(3)] (4) Notwithstanding subdivisions (1) and (2) of this  
11 subsection, if the plaintiff was first injured in a foreign  
12 country in connection with any railroad operations therein and  
13 any defendant is a:

14 (a) Corporation that, either directly or through its  
15 subsidiaries, wholly owns or operates the foreign railroad; or

16 (b) Wholly owned subsidiary of a corporation that, either  
17 directly or through its subsidiaries, wholly owns or operates the  
18 foreign railroad;

19  
20 then venue shall exclusively be in the county where any such  
21 defendant corporation's registered agent is located, regardless  
22 of venue as to any other defendant or, if the plaintiff's  
23 principal place of residence was in the state of Missouri on the  
24 date the plaintiff was first injured, then venue may be in the  
25 county of the plaintiff's principal place of residence on the  
26 date the plaintiff was first injured.

27 6. Any action, in which any county shall be a plaintiff,  
28 may be commenced and prosecuted to final judgment in the county

1 in which the defendant or defendants reside, or in the county  
2 suing and where the defendants, or one of them, may be found.

3 7. In all actions, process shall be issued by the court in  
4 which the action is filed and process may be served in any county  
5 within the state.

6 8. In any action for defamation or for invasion of privacy,  
7 the plaintiff shall be considered first injured in the county in  
8 which the defamation or invasion was first published.

9 9. In all actions, venue shall be determined as of the date  
10 the plaintiff was first injured.

11 10. All motions to dismiss or to transfer based upon a  
12 claim of improper venue shall be deemed granted if not denied  
13 within ninety days of filing of the motion unless such time  
14 period is waived in writing by all parties.

15 11. In a wrongful death action, the plaintiff shall be  
16 considered first injured where the decedent was first injured by  
17 the wrongful acts or negligent conduct alleged in the action. In  
18 any spouse's claim for loss of consortium, the plaintiff claiming  
19 consortium shall be considered first injured where the other  
20 spouse was first injured by the wrongful acts or negligent  
21 conduct alleged in the action.

22 12. The provisions of this section shall apply irrespective  
23 of whether the defendant is a for-profit or a not-for-profit  
24 entity.

25 13. In any civil action, if all parties agree in writing to  
26 a change of venue, the court shall transfer venue to the county  
27 within the state unanimously chosen by the parties. If any  
28 parties are added to the cause of action after the date of said

1 transfer who do not consent to said transfer then the cause of  
2 action shall be transferred to such county in which venue is  
3 appropriate under this section, based upon the amended pleadings.

4 14. A plaintiff is considered first injured where the  
5 trauma or exposure occurred rather than where symptoms are first  
6 manifested.

7 15. Notwithstanding any other provision of law, in any  
8 civil action in which there is a count alleging a tort, each  
9 plaintiff shall independently establish proper venue. It is not  
10 sufficient that venue is proper for any other plaintiff joined in  
11 the civil action. Venue cannot be established by joinder or  
12 intervention. The claims of any plaintiff who cannot  
13 independently establish venue shall be deemed misjoined, and the  
14 claims of any such plaintiff shall be severed and transferred to  
15 a county in which venue exists. If there is no county in  
16 Missouri in which venue exists, such claims shall be dismissed  
17 without prejudice.

18 16. For the purposes of this section, the residence of a  
19 domestic insurance company shall be the county where its  
20 registered office is maintained. The residence of a foreign  
21 insurance company shall be in the county where its registered  
22 office is maintained, unless it does not maintain such an office  
23 within the state. If a foreign insurance company does not  
24 maintain a registered office in any county in Missouri, the  
25 residence of the foreign insurance company shall be in Cole  
26 County.

27 17. Any party to a civil action properly pending in any  
28 venue in Missouri in which there is a count alleging a tort may



1 apply to the Supreme Court of Missouri to consolidate that action  
2 for pretrial proceedings with any other action or actions arising  
3 out of the same transaction, occurrence, or series of  
4 transactions or occurrences as long as those other actions are  
5 also properly pending in any state circuit court in Missouri.  
6 Any such application shall be filed within thirty days of the  
7 filing of a defendant's answer. Upon a showing of good cause,  
8 including convenience to the parties and judicial economy, the  
9 Supreme Court may order those properly venued cases transferred  
10 to a single venue with the most significant contacts to the  
11 actions and consolidate the actions for coordinated or  
12 consolidated pretrial proceedings; however, the Supreme Court  
13 shall not transfer more than ninety-nine plaintiffs to a single  
14 venue for consolidation of pretrial proceedings. Where otherwise  
15 allowable, a writ filed or immediate appeal of pretrial rulings  
16 made by the pretrial court is to be taken to the court with  
17 jurisdiction to hear appeals from the pretrial court making such  
18 orders. Each action so transferred shall be remanded by the  
19 court at or before the conclusion of such pretrial proceedings to  
20 the circuit court from which it was transferred unless it shall  
21 have been previously terminated, or unless all parties waive  
22 objections to venue and joinder for trial purposes. Appeals of  
23 trial court rulings and post-trial appeals are to be taken to the  
24 court with jurisdiction to hear appeals from the trial court.

25 537.762. 1. A defendant whose liability is based solely on  
26 his status as a seller in the stream of commerce may be dismissed  
27 from a products liability claim as provided in this section.

28 2. This section shall apply to any products liability claim

1 in which another defendant, including the manufacturer, is  
2 properly before the court and from whom total recovery may be had  
3 for plaintiff's claim.

4 3. A defendant may move for dismissal under this section  
5 within the time for filing an answer or other responsive pleading  
6 unless permitted by the court at a later time for good cause  
7 shown. The motion shall be accompanied by an affidavit which  
8 shall be made under oath and shall state that the defendant is  
9 aware of no facts or circumstances upon which a verdict might be  
10 reached against him, other than his status as a seller in the  
11 stream of commerce.

12 4. The parties shall have sixty days in which to conduct  
13 discovery on the issues raised in the motion and affidavit. The  
14 court for good cause shown, may extend the time for discovery,  
15 and may enter a protective order pursuant to the rules of civil  
16 procedure regarding the scope of discovery on other issues.

17 5. Any party may move for a hearing on a motion to dismiss  
18 under this section. If the requirements of subsections 2 and 3  
19 of this section are met, and no party comes forward at such a  
20 hearing with evidence of facts which would render the defendant  
21 seeking dismissal under this section liable on some basis other  
22 than his status as a seller in the stream of commerce, the court  
23 shall dismiss without prejudice the claim as to that defendant.

24 6. [No order of dismissal under this section shall operate  
25 to divest a court of venue or jurisdiction otherwise proper at  
26 the time the action was commenced. A defendant dismissed  
27 pursuant to this section shall be considered to remain a party to  
28 such action only for such purposes.

1           7.] An order of dismissal under this section shall be  
2 interlocutory until final disposition of plaintiff's claim by  
3 settlement or judgment and may be set aside for good cause shown  
4 at anytime prior to such disposition.