

FIRST REGULAR SESSION

SENATE BILL NO. 171

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

0465S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 537.067, RSMo, and to enact in lieu thereof one new section relating to fault of nonparties.

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Section A. Section 537.067, RSMo, is repealed and one new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

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

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

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

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

20 3. In all tort actions, no party may disclose to the
21 trier of fact the impact of this section.

22 **4. When a defendant or a third-party defendant intends**
23 **to claim for purposes of subsection 1 of this section that a**
24 **nonparty is at fault, such claim is an affirmative defense**
25 **for each party in a tort action that a specific percentage**
26 **of fault that proximately caused the damages is attributable**
27 **to one or more persons from whom the plaintiff does not seek**
28 **recovery in the action. Any party to the tort action from**
29 **whom the plaintiff seeks recovery may raise the affirmative**
30 **defense at any time before trial. The identity of any**
31 **nonparty claimed to be at fault, if known to the party**
32 **making the claim, shall also be affirmatively pleaded.**

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