

SENATE BILL NO. 381

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

0144S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 537.067, RSMo, and to enact in lieu thereof one new section relating to joint and several liability.

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Section A. Section 537.067, RSMo, is repealed and one new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.

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

20 3.] the liability of each defendant for damages shall
21 be several and shall not be joint. Each defendant shall be
22 liable only for the amount of damages allocated to that
23 defendant in direct proportion to that defendant's
24 percentage of fault. A separate several judgment shall be
25 rendered against that defendant for that amount.

26 2. To determine the amount of judgment to be entered
27 against each defendant, the court shall multiply the total
28 amount of damages recoverable by the plaintiff by the
29 percentage of each defendant's fault. That amount shall be
30 the maximum recoverable against that defendant.

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

36 4. Negligence or fault of a nonparty may be considered
37 if the plaintiff entered into a settlement agreement with
38 the nonparty or if the defending party gives notice before
39 trial, in accordance with requirements established by court
40 rule, that a nonparty was wholly or partially at fault.
41 Assessments of percentages of fault of nonparties shall be
42 used only in the determination of the percentage of fault of
43 named parties. Where fault is assessed against nonparties
44 under this section, findings of fact shall not subject any
45 nonparty to liability in any action or be introduced as
46 evidence of liability in any action.

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

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