

FIRST REGULAR SESSION

SENATE BILL NO. 826

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

3170S.01I

KRISTINA MARTIN, Secretary

AN ACT

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

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Section A. Section 537.067, RSMo, is repealed and one new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

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

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.] 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. If a
26 plaintiff is found to bear fifty-one percent or more of the
27 fault to the action, then the plaintiff shall be barred from
28 the recovery of any damages for the action.

29 2. To determine the amount of damages to be entered
30 against each defendant in accordance with subsection 1 of
31 this section, the trier of fact shall calculate the
32 following:

33 (1) The total amount of damages a plaintiff would have
34 been entitled to recover absent any fault to be proportioned
35 to such plaintiff;

36 (2) The percentage of fault of each party, including
37 any fault that is attributable to the plaintiff, and all
38 other persons or entities who contributed to the alleged
39 injury or damages, regardless of whether the person or
40 entity was, or could have been, named as a party to the
41 action; and

42 (3) Multiply the total amount of damages recoverable
43 by the plaintiff by the percentage of each defendant's fault.

44 3. The amount of damages calculated pursuant to
45 subsection 2 of this section for a defendant shall be the
46 maximum recoverable against that defendant.

47 4. Assessments of percentages of fault of nonparties
48 shall be used only in the determination of the percentage of

49 fault of named parties. Where fault is assessed against
50 nonparties under this section, findings of fact shall not
51 subject any nonparty to liability in any action or be
52 introduced as evidence of liability in any action.

53 5. In all tort actions, no party may disclose to the
54 trier of fact the impact of this section. The court shall
55 instruct the jury on the application of this section,
56 including the determination of a plaintiff's percentage of
57 fault, a defendant's percentage of fault, and the bar to
58 recovery if the plaintiff is found to bear fifty-one percent
59 or more of the fault.

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