

HB 434 -- CO-EMPLOYEE LIABILITY FOR NEGLIGENCE

SPONSOR: Nolte

COMMITTEE ACTION: Voted "do pass" by the Committee on Workforce Development and Workplace Safety by a vote of 6 to 5.

This bill requires co-employees to be released from liability for negligence in performing the nondelegable duty of an employer to provide a safe workplace when the negligence contributes to another employee's personal injury or death unless the employee engaged in an affirmative negligent act that purposefully and dangerously caused or increased the risk of injury.

FISCAL NOTE: No impact on state funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill is needed to correct an interpretation of the law by the courts that exposes an employee to civil liability for injuries sustained by a co-worker. Exposing co-workers to civil liability will inhibit a worker from accepting high-risk employment. Currently, an injured worker could receive benefits under workers' compensation as well as seek civil remedies thereby collecting twice for the same injury.

Testifying for the bill were Representative Nolte; Missouri Chamber of Commerce and Industry; Associated Builders and Contractors; Missouri Restaurant Association; Associated Industries of Missouri; Missouri Retailers Association; Missouri Grocers' Association; Harry Gallagher, Property Casualty Insurers Association of America; and Bert Kimble, Sonny's Solid Waste.

OPPOSERS: Those who oppose the bill say that the bill prevents a worker from seeking common law remedies from a co-worker who is injured as a result of a co-worker's actions. A worker who dies as a result of a work injury or the worker's estate is prohibited from collecting workers' compensation unless he or she has a spouse or minor children.

Testifying against the bill were John Boyd; and Missouri AFL-CIO.

OTHERS: Others testifying on the bill say that this issue arose as a result of changes made to the workers' compensation laws in 2005. An alternative would be to change the language requiring strict interpretation of the law to a broader interpretation.

Testifying on the bill was Missouri Association of Trial Attorneys.