

SECOND REGULAR SESSION

# HOUSE BILL NO. 1298

96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANZ.

5290L.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 537.067, RSMo, and to enact in lieu thereof one new section relating to tort actions for damages.

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Section A. Section 537.067, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.067, to read as follows:

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

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

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

2. The defendants shall only be severally liable for the percentage of punitive damages for which fault is attributed to such defendant by the trier of fact.] **the liability of each defendant for compensatory or punitive damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault. A separate several judgment shall be rendered against that defendant for that amount.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           **2. To determine the amount of judgment to be entered against each defendant, the**  
18 **court shall multiply the total amount of damages recoverable by the plaintiff with regard**  
19 **to each defendant by the percentage of each defendant's fault. That amount shall be the**  
20 **maximum recoverable against that defendant.**

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

24           **4. Negligence or fault of a nonparty may be considered if the plaintiff entered into**  
25 **a settlement agreement with the nonparty or if the defending party gives notice before trial,**  
26 **in accordance with requirements established by court rule, that a nonparty was wholly or**  
27 **partially at fault. Assessments of percentages of fault of nonparties shall be used only in**  
28 **the determination of the percentage of fault of named parties. Where fault is assessed**  
29 **against nonparties under this section, findings of fact shall not subject any nonparty to**  
30 **liability in any action or be introduced as evidence of liability in any action.**

31           **[3.] 5. In all tort actions, no party may disclose to the trier of fact the impact of this**  
32 **section.**

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