

By Senator Webster

9-1178-06

See HB 145

1 A bill to be entitled

2 An act relating to apportionment of damages in

3 civil actions; amending s. 768.81, F.S.;

4 deleting exceptions to a requirement for

5 liability based on percentage of fault instead

6 of joint and several liability; providing

7 applicability; providing an effective date.

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Subsection (3) of section 768.81, Florida

12 Statutes, is amended to read:

13 768.81 Comparative fault.--

14 (3) APPORTIONMENT OF DAMAGES.--In cases to which this

15 section applies, the court shall enter judgment against each

16 party liable on the basis of such party's percentage of fault

17 and not on the basis of the doctrine of joint and several

18 liability, ~~except as provided in paragraphs (a), (b), and~~

19 ~~(c);~~

20 ~~(a) Where a plaintiff is found to be at fault, the~~

21 ~~following shall apply:~~

22 1. ~~Any defendant found 10 percent or less at fault~~

23 ~~shall not be subject to joint and several liability.~~

24 2. ~~For any defendant found more than 10 percent but~~

25 ~~less than 25 percent at fault, joint and several liability~~

26 ~~shall not apply to that portion of economic damages in excess~~

27 ~~of \$200,000.~~

28 3. ~~For any defendant found at least 25 percent but not~~

29 ~~more than 50 percent at fault, joint and several liability~~

30 ~~shall not apply to that portion of economic damages in excess~~

31 ~~of \$500,000.~~

1 ~~4. For any defendant found more than 50 percent at~~
2 ~~fault, joint and several liability shall not apply to that~~
3 ~~portion of economic damages in excess of \$1 million.~~

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5 ~~For any defendant under subparagraph 2., subparagraph 3., or~~
6 ~~subparagraph 4., the amount of economic damages calculated~~
7 ~~under joint and several liability shall be in addition to the~~
8 ~~amount of economic and noneconomic damages already apportioned~~
9 ~~to that defendant based on that defendant's percentage of~~
10 ~~fault.~~

11 ~~(b) Where a plaintiff is found to be without fault,~~
12 ~~the following shall apply:~~

13 ~~1. Any defendant found less than 10 percent at fault~~
14 ~~shall not be subject to joint and several liability.~~

15 ~~2. For any defendant found at least 10 percent but~~
16 ~~less than 25 percent at fault, joint and several liability~~
17 ~~shall not apply to that portion of economic damages in excess~~
18 ~~of \$500,000.~~

19 ~~3. For any defendant found at least 25 percent but not~~
20 ~~more than 50 percent at fault, joint and several liability~~
21 ~~shall not apply to that portion of economic damages in excess~~
22 ~~of \$1 million.~~

23 ~~4. For any defendant found more than 50 percent at~~
24 ~~fault, joint and several liability shall not apply to that~~
25 ~~portion of economic damages in excess of \$2 million.~~

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27 ~~For any defendant under subparagraph 2., subparagraph 3., or~~
28 ~~subparagraph 4., the amount of economic damages calculated~~
29 ~~under joint and several liability shall be in addition to the~~
30 ~~amount of economic and noneconomic damages already apportioned~~
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1 ~~to that defendant based on that defendant's percentage of~~
2 ~~fault.~~

3 ~~(c) With respect to any defendant whose percentage of~~
4 ~~fault is less than the fault of a particular plaintiff, the~~
5 ~~doctrine of joint and several liability shall not apply to any~~
6 ~~damages imposed against the defendant.~~

7 (a)(d) In order to allocate any or all fault to a
8 nonparty, a defendant must affirmatively plead the fault of a
9 nonparty and, absent a showing of good cause, identify the
10 nonparty, if known, or describe the nonparty as specifically
11 as practicable, either by motion or in the initial responsive
12 pleading when defenses are first presented, subject to
13 amendment any time before trial in accordance with the Florida
14 Rules of Civil Procedure.

15 (b)(e) In order to allocate any or all fault to a
16 nonparty and include the named or unnamed nonparty on the
17 verdict form for purposes of apportioning damages, a defendant
18 must prove at trial, by a preponderance of the evidence, the
19 fault of the nonparty in causing the plaintiff's injuries.

20 Section 2. This act shall take effect upon becoming a
21 law and shall apply to causes of action that accrue on or
22 after the effective date.
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