

1 A bill to be entitled
2 An act relating to negligence; amending s.
3 768.76, F.S.; revising language with respect to
4 collateral sources of indemnity to redefine the
5 term "collateral sources" with respect to
6 negligence actions; amending s. 768.81, F.S.;
7 revising language with respect to the
8 applicability of joint and several liability to
9 certain actions; providing that certain
10 employers participating in a worker's
11 compensation eligibility program shall not be
12 considered a party in a negligence action and
13 shall not be listed as a tortfeasor on certain
14 jury verdicts; providing an effective date.

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

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18 Section 1. Subsection (2) of section 768.76, Florida
19 Statutes, is amended to read:

20 768.76 Collateral sources of indemnity.--

21 (1) In any action to which this part applies in which
22 liability is admitted or is determined by the trier of fact
23 and in which damages are awarded to compensate the claimant
24 for losses sustained, the court shall reduce the amount of
25 such award by the total of all amounts which have been paid
26 for the benefit of the claimant, or which are otherwise
27 available to the claimant, from all collateral sources;
28 however, except in the case of compensation received or
29 payable under workers' compensation, there shall be no
30 reduction for collateral sources for which a subrogation or
31 reimbursement right exists. Such reduction shall be offset to

1 the extent of any amount which has been paid, contributed, or
2 forfeited by, or on behalf of, the claimant or members of the
3 claimant's immediate family to secure her or his right to any
4 collateral source benefit which the claimant is receiving as a
5 result of her or his injury.

6 (2) For purposes of this section:

7 (a) "Collateral sources" means any payments made to
8 the claimant, or made on the claimant's behalf, by or pursuant
9 to:

10 1. The United States Social Security Act, except Title
11 XVIII and Title XIX; any federal, state, or local income
12 disability act; or any other public programs providing medical
13 expenses, disability payments, or other similar benefits,
14 except those prohibited by federal law and those expressly
15 excluded by law as collateral sources.

16 2. Any health, sickness, or income disability
17 insurance; automobile accident insurance that provides health
18 benefits or income disability coverage; and any other similar
19 insurance benefits, except life insurance benefits available
20 to the claimant, whether purchased by her or him or provided
21 by others.

22 3. Any contract or agreement of any group,
23 organization, partnership, or corporation to provide, pay for,
24 or reimburse the costs of hospital, medical, dental, or other
25 health care services.

26 4. Any contractual or voluntary wage continuation plan
27 provided by employers or by any other system intended to
28 provide wages during a period of disability.

29 5. Any compensation received or payable under worker's
30 compensation as defined in s. 440.02(6).

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1 (b) Notwithstanding any other provision of this
2 section, benefits received under Medicare, or any other
3 federal program providing for a Federal Government lien on or
4 right of reimbursement from the plaintiff's recovery, ~~the~~
5 ~~Workers' Compensation Law~~, the Medicaid program of Title XIX
6 of the Social Security Act or from any medical services
7 program administered by the Department of Health and
8 Rehabilitative Services shall not be considered a collateral
9 source.

10 Section 2. Subsection (5) of section 768.81, Florida
11 Statutes, is amended, present subsection (6) is renumbered as
12 subsection (7) and a new subsection (6) is added to said
13 section to read:

14 768.81 Comparative fault.--

15 (5) WORKER'S COMPENSATION.--For the purposes of this
16 section, an employer as defined in s. 440.02(14),
17 participating in a worker's compensation eligibility program,
18 shall not be considered a party in a negligence action and
19 shall not be listed as a tortfeasor on the jury verdict form
20 with respect to accidents arising out of work performed in the
21 course and scope of employment, as described in s. 440.09. Any
22 payments made by an employer covered by worker's compensation
23 shall be considered collateral sources as provided in s.

24 ~~768.76. APPLICABILITY OF JOINT AND SEVERAL~~

25 ~~LIABILITY.--Notwithstanding the provisions of this section,~~
26 ~~the doctrine of joint and several liability applies to all~~
27 ~~actions in which the total amount of damages does not exceed~~
28 ~~\$25,000.~~

29 (6) APPLICABILITY OF JOINT AND SEVERAL
30 LIABILITY.--Notwithstanding the provisions of this section,

1 the doctrine of joint and several liability shall not apply to
2 that portion of economic damages in excess of \$250,000.

3 Section 3. This act shall take effect October 1 of the
4 year in which enacted.

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