

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

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

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20 Section 1. Subsections (1) and (2) of section 768.76,
21 Florida Statutes, is amended to read:

22 768.76 Collateral sources of indemnity.--

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

1 reduction for collateral sources for which a subrogation or
2 reimbursement right exists. Such reduction shall be offset to
3 the extent of any amount which has been paid, contributed, or
4 forfeited by, or on behalf of, the claimant or members of the
5 claimant's immediate family to secure her or his right to any
6 collateral source benefit which the claimant is receiving as a
7 result of her or his injury.

8 (2) For purposes of this section:

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

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

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

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

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

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

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

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

16 768.81 Comparative fault.--

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

26 ~~768.76. APPLICABILITY OF JOINT AND SEVERAL~~

27 ~~LIABILITY.--Notwithstanding the provisions of this section,~~
28 ~~the doctrine of joint and several liability applies to all~~
29 ~~actions in which the total amount of damages does not exceed~~
30 ~~\$25,000.~~

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1 (6) APPLICABILITY OF JOINT AND SEVERAL
2 LIABILITY.--Notwithstanding the provisions of this section,
3 the doctrine of joint and several liability shall not apply to
4 that portion of economic damages in excess of \$250,000.

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

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