

By Senator Cowin

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A bill to be entitled
An act relating to comparative fault; amending
s. 768.81, F.S.; specifying an additional type
of negligence case for purposes of comparative
fault in civil actions for damages; deleting
actions based on an intentional tort from
exclusions from application; providing an
effective date.

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

Section 1. Subsection (4) of section 768.81, Florida
Statutes, is amended to read:

768.81 Comparative fault.--

(4) APPLICABILITY.--

(a) This section applies to negligence cases. For
purposes of this section, "negligence cases" includes, but is
not limited to, civil actions for damages, based upon theories
of negligence, strict liability, products liability,
professional malpractice whether couched in terms of contract
or tort, or breach of warranty and like theories, and
negligence actions for damages, based upon an intentional
tort, including, but not limited to, criminal conduct. In
determining whether a case falls within the term "negligence
cases," the court shall look to the substance of the action
and not the conclusory terms used by the parties.

(b) This section does not apply to any action brought
by any person to recover actual economic damages resulting
from pollution, ~~to any action based upon an intentional tort,~~
or to any cause of action as to which application of the
doctrine of joint and several liability is specifically

1 provided by chapter 403, chapter 498, chapter 517, chapter
2 542, or chapter 895.

3 Section 2. This act shall take effect July 1, 2001.

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LEGISLATIVE SUMMARY

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Includes within "negligence cases" for purposes of
comparative fault in civil actions for damages negligence
actions for damages based upon an intentional tort,
including criminal conduct. Deletes from exclusions from
application actions based on an intentional tort.

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