

1 A bill to be entitled

2 An act relating to civil justice reform; amending s.
3 47.051, F.S.; revising procedures for bringing actions
4 against corporations; providing a definition; creating s.
5 768.1259, F.S.; defining the term "seller"; prohibiting
6 commencing or maintaining a civil claim or action against
7 a seller under certain circumstances; specifying criteria
8 for actions for product liability of a seller; amending s.
9 768.81, F.S.; deleting exceptions to a requirement for
10 liability based on percentage of fault instead of joint
11 and several liability; providing applicability; providing
12 an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 47.051, Florida Statutes, is amended to
17 read:

18 47.051 Actions against corporations.--Actions against
19 domestic corporations shall be brought only in the county where
20 such corporation has its principal office as defined in s.
21 607.01401(20), ~~or usually keeps, an office for transaction of~~
22 ~~its customary business,~~ where the cause of action accrued, or
23 where the property in litigation is located. Actions against
24 foreign corporations doing business in this state shall be
25 brought in the county in which its registered agent for service
26 of process resides ~~a county where such corporation has an agent~~
27 ~~or other representative,~~ where the cause of action accrued, or
28 where the property in litigation is located.

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29 Section 2. Section 768.1259, Florida Statutes, is created
 30 to read:

31 768.1259 Protection from liability for sellers.--

32 (1) As used in this section, the term "seller" means a
 33 person who sells a product as a retailer, distributor, or
 34 wholesaler or who otherwise transfers a product to another for
 35 compensation.

36 (2) A person may not commence or maintain a civil claim or
 37 action against the seller of a product based on a claim that the
 38 product contained a defect which proximately caused injury to
 39 that person unless the seller:

40 (a) Manufactured, produced, or designed the product;

41 (b) Altered, modified, assembled, or failed to maintain
 42 the product in a manner that caused harm to the claimant;

43 (c) Had actual knowledge of a manufacturing defect which
 44 proximately caused the person's harm; or

45 (d) Knew, or, in the exercise of reasonable care, should
 46 have known, that the product was recalled prior to sale and the
 47 defect identified in the recall proximately cause the injury
 48 complained of.

49 (3) Notwithstanding subsection (2), the seller of a
 50 product is subject to an action for product liability if the
 51 manufacturer of the product is not subject to personal
 52 jurisdiction in this state or if the manufacturer is insolvent.

53 Section 3. Subsection (3) of section 768.81, Florida
 54 Statutes, is amended to read:

55 768.81 Comparative fault.--

56 (3) APPORTIONMENT OF DAMAGES.--In cases to which this
57 section applies, the court shall enter judgment against each
58 party liable on the basis of such party's percentage of fault
59 and not on the basis of the doctrine of joint and several
60 liability., ~~except as provided in paragraphs (a), (b), and (c):~~

61 ~~(a) Where a plaintiff is found to be at fault, the~~
62 ~~following shall apply:~~

63 ~~1. Any defendant found 10 percent or less at fault shall~~
64 ~~not be subject to joint and several liability.~~

65 ~~2. For any defendant found more than 10 percent but less~~
66 ~~than 25 percent at fault, joint and several liability shall not~~
67 ~~apply to that portion of economic damages in excess of \$200,000.~~

68 ~~3. For any defendant found at least 25 percent but not~~
69 ~~more than 50 percent at fault, joint and several liability shall~~
70 ~~not apply to that portion of economic damages in excess of~~
71 ~~\$500,000.~~

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

75
76 ~~For any defendant under subparagraph 2., subparagraph 3., or~~
77 ~~subparagraph 4., the amount of economic damages calculated under~~
78 ~~joint and several liability shall be in addition to the amount~~
79 ~~of economic and noneconomic damages already apportioned to that~~
80 ~~defendant based on that defendant's percentage of fault.~~

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

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

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

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

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

95 |
96 | ~~For any defendant under subparagraph 2., subparagraph 3., or~~
97 | ~~subparagraph 4., the amount of economic damages calculated under~~
98 | ~~joint and several liability shall be in addition to the amount~~
99 | ~~of economic and noneconomic damages already apportioned to that~~
100 | ~~defendant based on that defendant's percentage of fault.~~

101 | ~~(c) With respect to any defendant whose percentage of~~
102 | ~~fault is less than the fault of a particular plaintiff, the~~
103 | ~~doctrine of joint and several liability shall not apply to any~~
104 | ~~damages imposed against the defendant.~~

105 | ~~(a)~~ (d) In order to allocate any or all fault to a
106 | nonparty, a defendant must affirmatively plead the fault of a
107 | nonparty and, absent a showing of good cause, identify the
108 | nonparty, if known, or describe the nonparty as specifically as
109 | practicable, either by motion or in the initial responsive
110 | pleading when defenses are first presented, subject to amendment

111 any time before trial in accordance with the Florida Rules of
112 Civil Procedure.

113 (b)~~(e)~~ In order to allocate any or all fault to a nonparty
114 and include the named or unnamed nonparty on the verdict form
115 for purposes of apportioning damages, a defendant must prove at
116 trial, by a preponderance of the evidence, the fault of the
117 nonparty in causing the plaintiff's injuries.

118 Section 4. This act shall take effect upon becoming a law
119 and shall apply to causes of action that accrue on or after the
120 effective date.