

Bill No. HB 1931, 1st Eng.

Barcode 842594

CHAMBER ACTION

Senate

House

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Senator Campbell moved the following amendment:

**Senate Amendment (with title amendment)**

Between lines 86 and 87,

insert:

Section 5. Subsection (3) of section 768.81, Florida Statutes, is amended to read:

768.81 Comparative fault.--

(3) APPORTIONMENT OF DAMAGES.--In cases to which this section applies, the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability. Notwithstanding any other provision of law to the contrary, fault shall not be allocated to a nonparty to the action, and no nonparty to the action, whether named or unnamed, shall be included on the verdict form for purposes of apportioning damages., except as provided in paragraphs (a), (b), and (c):

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

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

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

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

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

14  
15 ~~For any defendant under subparagraph 2., subparagraph 3., or~~  
16 ~~subparagraph 4., the amount of economic damages calculated~~  
17 ~~under joint and several liability shall be in addition to the~~  
18 ~~amount of economic and noneconomic damages already apportioned~~  
19 ~~to that defendant based on that defendant's percentage of~~  
20 ~~fault.~~

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

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

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

29           ~~3. For any defendant found at least 25 percent but not~~  
30 ~~more than 50 percent at fault, joint and several liability~~  
31 ~~shall not apply to that portion of economic damages in excess~~

1 ~~of \$1 million.~~

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

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

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

16 ~~(d) In order to allocate any or all fault to a~~  
17 ~~nonparty, a defendant must affirmatively plead the fault of a~~  
18 ~~nonparty and, absent a showing of good cause, identify the~~  
19 ~~nonparty, if known, or describe the nonparty as specifically~~  
20 ~~as practicable, either by motion or in the initial responsive~~  
21 ~~pleading when defenses are first presented, subject to~~  
22 ~~amendment any time before trial in accordance with the Florida~~  
23 ~~Rules of Civil Procedure.~~

24 ~~(e) In order to allocate any or all fault to a~~  
25 ~~nonparty and include the named or unnamed nonparty on the~~  
26 ~~verdict form for purposes of apportioning damages, a defendant~~  
27 ~~must prove at trial, by a preponderance of the evidence, the~~  
28 ~~fault of the nonparty in causing the plaintiff's injuries.~~

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30 (Redesignate subsequent sections.)

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3            On line 23, after the semicolon,

4

5 insert:

6            amending s. 768.81, F.S.; prohibiting

7            allocation of fault to a nonparty and inclusion

8            on jury verdict forms; deleting exceptions to a

9            requirement for liability based on percentage

10           of fault instead of joint and several

11           liability;

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