

Bill No. HB 145

Barcode 501164

CHAMBER ACTION

Senate

House

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Senator Webster moved the following **substitute for amendment**
(704476):

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. 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., ~~except as provided in paragraphs (a), (b), and~~
~~(c):~~

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

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

~~2. For any defendant found more than 10 percent but~~

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1 ~~less than 25 percent at fault, joint and several liability~~
2 ~~shall not apply to that portion of economic damages in excess~~
3 ~~of \$200,000.~~

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

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

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

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

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

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

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

30 ~~4. For any defendant found more than 50 percent at~~
31 ~~fault, joint and several liability shall not apply to that~~

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1 ~~portion of economic damages in excess of \$2 million.~~

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

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

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

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

26 Section 2. This act shall take effect upon becoming a
27 law and shall apply to causes of action that accrue on or
28 after the effective date.

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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 Delete everything before the enacting clause

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5 and insert:

6 A bill to be entitled

7 An act relating to apportionment of damages in

8 civil actions; amending s. 768.81, F.S.;

9 deleting exceptions to a requirement for

10 liability based on percentage of fault instead

11 of joint and several liability; providing

12 applicability; providing an effective date.

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