

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representatives Seiler and Joyner offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 13-74 and insert:

5 (3) APPORTIONMENT OF DAMAGES.--In cases to which this
6 section applies, the trier of fact shall apportion the total
7 fault for the occurrence giving rise to the legal proceeding
8 among the claimant and those parties to the action who may be
9 held legally liable and the court shall enter judgment against
10 each party liable on the basis of such party's percentage of
11 fault and not on the basis of the doctrine of joint and several
12 liability., ~~except as provided in paragraphs (a), (b), and (c):~~

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

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

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

20 ~~3. For any defendant found at least 25 percent but not~~
21 ~~more than 50 percent at fault, joint and several liability shall~~
22 ~~not apply to that portion of economic damages in excess of~~
23 ~~\$500,000.~~

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

27
28 ~~For any defendant under subparagraph 2., subparagraph 3., or~~
29 ~~subparagraph 4., the amount of economic damages calculated under~~
30 ~~joint and several liability shall be in addition to the amount~~
31 ~~of economic and noneconomic damages already apportioned to that~~
32 ~~defendant based on that defendant's percentage of fault.~~

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

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

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

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

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

47
48 ~~For any defendant under subparagraph 2., subparagraph 3., or~~
49 ~~subparagraph 4., the amount of economic damages calculated under~~
50 ~~joint and several liability shall be in addition to the amount~~
51 ~~of economic and noneconomic damages already apportioned to that~~
52 ~~defendant based on that defendant's percentage of fault.~~

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

57 ~~(d) In order to allocate any or all fault to a nonparty, a~~
58 ~~defendant must affirmatively plead the fault of a nonparty and,~~
59 ~~absent a showing of good cause, identify the nonparty, if known,~~
60 ~~or describe the nonparty as specifically as practicable, either~~
61 ~~by motion or in the initial responsive pleading when defenses~~
62 ~~are first presented, subject to amendment any time before trial~~
63 ~~in accordance with the Florida Rules of Civil Procedure.~~

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

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70

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

72 Remove lines 3-5 and insert:

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73 | actions; amending s. 768.81, F.S.; providing for apportionment
74 | of fault; deleting exceptions to a requirement for liability
75 | based on percentage of fault instead of joint and several
76 | liability; deleting requirements relating to allocation of
77 | fault to a nonparty; providing