

Bill No. HB 145

Barcode 743632

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Floor: WD/2R
03/29/2006 01:38 PM

.
. .
. .
. .
. .

Senator Webster moved the following **amendment to amendment**
(704476):

Senate Amendment (with title amendment)

On page 1, line 17, through page 11, line 27, delete
those lines

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.~~

Bill No. HB 145

Barcode 743632

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

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

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

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

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

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

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

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

31 ~~4. For any defendant found more than 50 percent at~~

Barcode 743632

1 ~~fault, joint and several liability shall not apply to that~~
2 ~~portion of economic damages in excess of \$2 million.~~

3

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

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

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

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

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

30

31

Bill No. HB 145

Barcode 743632

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 page 12, lines 4-22, delete those lines

4

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.

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31