

ENROLLED  
 HB 145

2006 Legislature

1                                   A bill to be entitled  
 2           An act relating to apportionment of damages in civil  
 3           actions; amending s. 768.81, F.S.; deleting exceptions to  
 4           a requirement for liability based on percentage of fault  
 5           instead of joint and several liability; providing  
 6           applicability; providing an effective date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. Subsection (3) of section 768.81, Florida  
 11           Statutes, is amended to read:

12           768.81 Comparative fault.--

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

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

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

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

25           ~~3. For any defendant found at least 25 percent but not~~  
 26           ~~more than 50 percent at fault, joint and several liability shall~~  
 27           ~~not apply to that portion of economic damages in excess of~~  
 28           ~~\$500,000.~~

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

32  
 33 ~~For any defendant under subparagraph 2., subparagraph 3., or~~  
 34 ~~subparagraph 4., the amount of economic damages calculated under~~  
 35 ~~joint and several liability shall be in addition to the amount~~  
 36 ~~of economic and noneconomic damages already apportioned to that~~  
 37 ~~defendant based on that defendant's percentage of fault.~~

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

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

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

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

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

52  
 53 ~~For any defendant under subparagraph 2., subparagraph 3., or~~  
 54 ~~subparagraph 4., the amount of economic damages calculated under~~  
 55 ~~joint and several liability shall be in addition to the amount~~  
 56 ~~of economic and noneconomic damages already apportioned to that~~

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57 ~~defendant based on that defendant's percentage of fault.~~

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

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

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

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