5163-S AMH SPRI ADAM 101

**SSB 5163** - H AMD **683**

By Representative Springer

**NOT ADOPTED 04/15/2019**

 On page 2, at the beginning of line 1, insert "(1)"

 On page 2, after line 9, insert the following:

 "(2) In an action under RCW 4.20.010, a defendant's liability for damages recovered on behalf of a deceased person's parent or sibling, who is not dependent upon the deceased person for support, is several only and not joint under RCW 4.22.070(1)(a) or (b) if: (a) the total percentage of fault attributed to the defendant is less than fifty percent; and (b) the defendant's liability is not based on an intentional act or omission.

 (3)"

 On page 2, line 30, after "(3)" insert "A defendant's liability for damages recovered on behalf of a decedent's parent or sibling, who is not dependent upon the decedent for support, is several only and not joint under RCW 4.22.070(1)(a) or (b) if: (a) the total percentage of fault attributed to the defendant is less than fifty percent; and (b) the defendant's liability is not based on an intentional act or omission.

 (4)"

 Renumber the remaining subsection consecutively and correct internal references accordingly.

 On page 3, after line 36, insert the following:

 "(4) A defendant's liability for damages recovered on behalf of a decedent's parent or sibling, who is not dependent upon the decedent for support, is several only and not joint under RCW 4.22.070(1)(a) or (b) if: (a) the total percentage of fault attributed to the defendant is less than fifty percent; and (b) the defendant's liability is not based on an intentional act or omission."

 On page 4, line 22, after "(3)" insert "In an action under this section for injury or death of an adult child, if the parent or legal guardian is not dependent upon the adult child for support, a defendant's liability is several only and not joint under RCW 4.22.070(1)(a) or (b) if: (a) the total percentage of fault attributed to the defendant is less than fifty percent; and (b) the defendant's liability is not based on an intentional act or omission.

 (4)"

 Renumber the remaining subsections consecutively and correct internal references accordingly.

 On page 5, after line 9, insert the following:

 **"Sec. 6.** RCW 4.22.070 and 1993 c 496 s 1 are each amended to read as follows:

 (1) In all actions involving fault of more than one entity, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which caused the claimant's damages except entities immune from liability to the claimant under Title 51 RCW. The sum of the percentages of the total fault attributed to at-fault entities shall equal one hundred percent. The entities whose fault shall be determined include the claimant or person suffering personal injury or incurring property damage, defendants, third-party defendants, entities released by the claimant, entities with any other individual defense against the claimant, and entities immune from liability to the claimant, but shall not include those entities immune from liability to the claimant under Title 51 RCW. Judgment shall be entered against each defendant except those who have been released by the claimant or are immune from liability to the claimant or have prevailed on any other individual defense against the claimant in an amount which represents that party's proportionate share of the claimant's total damages. The liability of each defendant shall be several only and shall not be joint except in the following circumstances:

 (a) A party shall be responsible for the fault of another person or for payment of the proportionate share of another party where both were acting in concert or when a person was acting as an agent or servant of the party, except as otherwise provided in RCW 4.20.020, 4.20.046, 4.20.060, or 4.24.010.

 (b) If the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the ((~~claimants~~)) claimant's total damages, except as otherwise provided in RCW 4.20.020, 4.20.046, 4.20.060, or 4.24.010.

 (2) If a defendant is jointly and severally liable under one of the exceptions listed in subsections (1)(a) or (1)(b) of this section, such defendant's rights to contribution against another jointly and severally liable defendant, and the effect of settlement by either such defendant, shall be determined under RCW 4.22.040, 4.22.050, and 4.22.060.

 (3)(a) Nothing in this section affects any cause of action relating to hazardous wastes or substances or solid waste disposal sites.

 (b) Nothing in this section shall affect a cause of action arising from the tortious interference with contracts or business relations.

 (c) Nothing in this section shall affect any cause of action arising from the manufacture or marketing of a fungible product in a generic form which contains no clearly identifiable shape, color, or marking."

 Renumber the remaining section consecutively and correct the title.

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|  |  EFFECT:   Provides that under a general wrongful death action or a general or special survival action, a defendant's liability for damages recovered on behalf of a decedent's parent or sibling who is not dependent on the decedent for support is several only, and not joint, if: (a) the total percentage of fault attributed to the defendant is less than 50 percent; and (b) the defendant's liability is not based on an intentional act or omission. Provides that in an action for wrongful injury or death of an adult child where the parent is not dependent on the child for support, a defendant's liability is several only, and not joint, if: (a) the total percentage of fault attributed to the defendant is less than 50 percent; and (b) the defendant's liability is not based on an intentional act or omission. |

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