

SENATE BILL REPORT

SB 5584

AS PASSED SENATE, MARCH 8, 1991

Brief Description: Clarifying the method for determining the proportionate share of damages when multiple parties are at fault.

SPONSORS: Senators Newhouse, Vognild, Nelson, Hansen, Thorsness, Owen and Bailey.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, and Newhouse.

Minority Report: Do not pass.

Signed by Senators L. Kreidler, Madsen, Rasmussen, and A. Smith.

Staff: Dick Armstrong (786-7460)

Hearing Dates: February 21, 1991; February 26, 1991

BACKGROUND:

Prior to 1986 if several defendants were found by the trier-of-fact to have caused the injuries to a claimant, each defendant was responsible for payment of the entire judgment. If one defendant paid more than his or her proportionate share, contributions could be obtained from the other defendants.

As part of the Tort Reform Act of 1986, joint and several liability was generally abolished. Defendants are now liable for only their proportionate share of fault. However, if the trier-of-fact finds that a claimant was "not at fault," then each defendant is jointly and severally liable for all economic and noneconomic damages.

SUMMARY:

The liability of a defendant is modified when the trier-of-fact determines that the claimant was not responsible for causing his or her injuries. If a claimant is without fault, defendants are only jointly liable for economic damages.

The term "economic damages" is defined.

Appropriation: none

Revenue: none

Fiscal Note: none

TESTIMONY FOR:

Joint liability should only apply to economic damages, not noneconomic damages, because the Washington Supreme Court has struck down the "cap" on noneconomic damages. Defendants may now be exposed to unlimited noneconomic damages. The cost for liability insurance is going to increase because of the court case.

TESTIMONY AGAINST:

The bill is unfair and unjust because innocent claimants may not be fully compensated if one of the defendants is judgment-proof. The bill will add to costs of litigation and the complexity of lawsuits.

TESTIFIED: Jeff Tilden, Washington Defense Trial Lawyers (pro); Sonja Alexander, City of Bellevue (pro); Gene Moen, WSTLA (con); Jeff Daggett, Consulting Engineers Council of Washington (pro); Lewis Leigh, Washington Cities Insurance Authority (pro)