
SUBSTITUTE HOUSE BILL 1358

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Ludwig, Johanson, Campbell, H. Myers, R. Meyers, Wineberry and Dellwo)

Read first time 03/03/93.

1 AN ACT Relating to the civil liability of joint tortfeasors; and
2 amending RCW 4.22.070.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 4.22.070 and 1986 c 305 s 401 are each amended to read
5 as follows:

6 (1) In all actions involving fault of more than one entity, the
7 trier of fact shall determine the percentage of the total fault which
8 is attributable to every entity which caused the claimant's damages,
9 including the claimant or person suffering personal injury or incurring
10 property damage, defendants, third-party defendants, entities released
11 by the claimant, entities immune from liability to the claimant and
12 entities with any other individual defense against the claimant.
13 Judgment shall be entered against each defendant except those who have
14 been released by the claimant or are immune from liability to the
15 claimant or have prevailed on any other individual defense against the
16 claimant in an amount which represents that party's proportionate share
17 of the claimant's total damages. The liability of each defendant shall
18 be several only and shall not be joint except:

1 (a) A party shall be responsible for the fault of another person or
2 for payment of the proportionate share of another party where both were
3 acting in concert or when a person was acting as an agent or servant of
4 the party.

5 (b) If the trier of fact determines that the claimant or party
6 suffering bodily injury or incurring property damages was not at fault,
7 the defendants against whom judgment is entered shall be jointly and
8 severally liable for the sum of their proportionate shares of the
9 claimants total damages.

10 (2) If a defendant is jointly and severally liable under one of the
11 exceptions listed in subsections (1)(a) or (1)(b) of this section, such
12 defendant's rights to contribution against another jointly and
13 severally liable defendant, and the effect of settlement by either such
14 defendant, shall be determined under RCW 4.22.040, 4.22.050, and
15 4.22.060.

16 (3) When the claimant has been found to be at fault by the trier of
17 fact the court shall, upon a motion by the claimant, determine whether
18 all or part of a defendant's share of the judgment is uncollectible.
19 If the court so finds, it shall reallocate the uncollectible amount
20 among all other defendants against whom judgment was entered and whose
21 percentage of fault is equal to or greater than that of the claimant
22 and the at-fault claimant, according to the ratios of their respective
23 percentages of fault. In determining whether a share is uncollectible,
24 the court shall consider the current and future availability and extent
25 of resources from which collection might be made, the current and
26 future ability of the claimant to collect the share, and the
27 reasonableness of the efforts made by the claimant to collect the
28 share. A defendant whose share is reallocated is nonetheless subject
29 to any continuing liability to the claimant on the judgment and to any
30 other defendant for any portion of the reallocated share paid to the
31 claimant.

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

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

36 (c) Nothing in this section shall affect any cause of action
37 arising from the manufacture or marketing of a fungible product in a

- 1 generic form which contains no clearly identifiable shape, color, or
- 2 marking.

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