
HOUSE BILL 2998

State of Washington 58th Legislature 2004 Regular Session

By Representatives McMahan, Newhouse, Carrell, Benson, Boldt, Bailey, Schindler, Holmquist, Kristiansen, Roach, Cairnes, Woods and Condotta

Read first time 01/26/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to civil liability reform; and amending RCW
2 51.24.035 and 4.16.300.

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

4 **Sec. 1.** RCW 51.24.035 and 1987 c 212 s 1801 are each amended to
5 read as follows:

6 (1) Notwithstanding RCW 51.24.030(1), the injured worker or
7 beneficiary may not seek damages (~~(against a design professional who is~~
8 ~~a third person and who has been retained to perform professional~~
9 ~~services on a construction project, or any employee of a design~~
10 ~~professional who is assisting or representing the design professional~~
11 ~~in the performance of professional services on the site of the~~
12 ~~construction project, unless responsibility for safety practices is~~
13 ~~specifically assumed by contract, the provisions of which were mutually~~
14 ~~negotiated, or the design professional actually exercised control over~~
15 ~~the portion of the premises where the worker was injured)) for an
16 injury or occupational disease occurring in the course of employment at
17 the site of a construction project, whether accomplished by a single
18 contract or by multiple contracts, against the owner or developer of
19 the project or against any person or entity performing work, furnishing~~

1 materials, or providing services to or for the construction project
2 including, but not limited to, design professionals, construction
3 managers, general or prime contractors, suppliers, subcontractors of
4 any tier, and any employee of a design professional, construction
5 manager, general or prime contractor, supplier, or subcontractor of any
6 tier.

7 (2) The immunity provided by this section does not extend to any
8 person or entity who injures a worker by deliberate intention as
9 defined in RCW 51.24.020, and it is against public policy to seek
10 indemnification in construction contracts against such liability. Such
11 contractual clauses are void and unenforceable.

12 (3) The immunity provided by this section does not extend to
13 manufacturers and product sellers for product liability actions as
14 defined in chapter 7.72 RCW.

15 (4) The immunity provided by this section does not apply to the
16 negligent preparation of design plans and specifications by a design
17 professional.

18 ((+3)) (5) For the purposes of this section, "design professional"
19 means an architect, professional engineer, land surveyor, or landscape
20 architect, who is licensed or authorized by law to practice such
21 profession, or any corporation organized under chapter 18.100 RCW or
22 authorized under RCW 18.08.420 or 18.43.130 to render design services
23 through the practice of one or more of such professions.

24 **Sec. 2.** RCW 4.16.300 and 1986 c 305 s 703 are each amended to read
25 as follows:

26 RCW 4.16.300 through 4.16.320 shall apply to all claims or causes
27 of action of any kind against any person, arising from such person
28 having constructed, altered or repaired any improvement upon real
29 property, or having performed or furnished any design, planning,
30 surveying, architectural or construction or engineering services, or
31 supervision or observation of construction, or administration of
32 construction contracts for any construction, alteration or repair of
33 any improvement upon real property. This section is specifically
34 intended to benefit ((only those persons referenced herein)) persons
35 having performed work for which the persons must be registered or
36 licensed under RCW 18.08.310, 18.27.020, 18.43.040, 18.96.020, or

1 19.28.041, and shall not apply to claims or causes of action against
2 ((~~manufacturers~~)) persons not required to be so registered or licensed.

3 NEW SECTION. **Sec. 3.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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