
SENATE BILL 5922

State of Washington

58th Legislature

2003 Regular Session

By Senator Brandland

Read first time 02/20/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to civil actions; and amending RCW 4.22.070 and
2 4.22.015.

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

4 **Sec. 1.** RCW 4.22.070 and 1993 c 496 s 1 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 except entities immune from liability to the claimant under Title 51
10 RCW. The sum of the percentages of the total fault attributed to at-
11 fault entities shall equal one hundred percent. The entities whose
12 fault shall be determined include the claimant or person suffering
13 personal injury or incurring property damage, defendants, third-party
14 defendants, entities (~~released by~~) who have entered into a release,
15 covenant not to sue, covenant not to enforce judgment, or similar
16 agreement with the claimant, entities with any other individual defense
17 against the claimant, and entities immune from liability to the
18 claimant, but shall not include those entities immune from liability to
19 the claimant under Title 51 RCW. Judgment shall be entered against

1 each defendant except those entities who have ~~((been released by))~~
2 entered into a release, covenant not to sue, covenant not to enforce
3 judgment, or similar agreement with the claimant or are immune from
4 liability to the claimant or have prevailed on any other individual
5 defense against the claimant in an amount which represents that party's
6 proportionate share of the claimant's total damages. The liability of
7 each defendant shall be several only and shall not be joint except(~~(+~~
8 ~~(a))~~) a party shall be responsible for the fault of another person
9 or for payment of the proportionate share of another party where both
10 were acting in concert or when a person was acting as an agent or
11 servant of the party.

12 ~~((b) If the trier of fact determines that the claimant or party~~
13 ~~suffering bodily injury or incurring property damages was not at fault,~~
14 ~~the defendants against whom judgment is entered shall be jointly and~~
15 ~~severally liable for the sum of their proportionate shares of the~~
16 ~~claimants [claimant's] total damages.))~~

17 (2) If a defendant is jointly and severally liable under ~~((one of))~~
18 the exception(~~(s))~~) listed in subsection(~~(s))~~) (1)~~((a) or (1)(b))~~ of
19 this section, such defendant's rights to contribution against another
20 jointly and severally liable defendant, and the effect of settlement by
21 either such defendant, shall be determined under RCW 4.22.040,
22 4.22.050, and 4.22.060.

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

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

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

31 **Sec. 2.** RCW 4.22.015 and 1981 c 27 s 9 are each amended to read as
32 follows:

33 "Fault" includes acts or omissions, including misuse of a product,
34 that are in any measure negligent ~~((or))~~, reckless, or intentional
35 toward the person or property of the actor or others, or that subject
36 a person to strict tort liability or liability on a product liability
37 claim. The term also includes breach of warranty, unreasonable

1 assumption of risk, and unreasonable failure to avoid an injury or to
2 mitigate damages. Legal requirements of causal relation apply both to
3 fault as the basis for liability and to contributory fault.

4 A comparison of fault for any purpose under RCW 4.22.005 through
5 4.22.060 shall involve consideration of both the nature of the conduct
6 of the parties to the action and the extent of the causal relation
7 between such conduct and the damages.

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