

HOUSE BILL 2810

By Dennis

AN ACT to amend Tennessee Code Annotated, Title 20,
Chapter 6, Part 1 and Title 29, Chapter 11, Part 1,
relative to the doctrine of joint and several liability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 20, Chapter 6, Part 1, is amended by adding the following as new sections:

Section 20-6-104.

(a) In civil actions governed by comparative fault, the financial responsibility of any at-fault defendants shall be determined by the several liability of such defendants. Thus, unless provided in this section or otherwise, the doctrine of joint and several liability shall not apply where:

(1) The separate, independent negligent acts of more than one (1) tortfeasor combine to cause a single indivisible injury; or

(2) The injuries caused by the negligence of the original tortfeasor are enhanced due to the efforts of third persons to render aid reasonably required by the plaintiff's injuries, as long as the enhanced harm arises from a risk that inheres in the effort to render aid.

(b) Notwithstanding subsection (a), the doctrine of joint and several liability remains in effect when it is applicable in cases involving the family purpose doctrine.

Section 20-6-105.

(a) The trier of fact may allocate fault to a third party who is statutorily immune from suit unless the action is governed by the Tennessee Workers' Compensation Law, compiled in title 50, chapter 6.

(b) In assessing percentages of fault, the trier of fact shall consider the fault of all persons who contributed to the alleged injury or death, or damage to property, tangible or intangible, regardless of whether such person was, or could have been, named as a party to the suit. Negligence or fault of a nonparty may be considered if the plaintiff entered into a settlement agreement with the nonparty or if the defending party gives notice within one hundred twenty (120) days of the date of trial that a nonparty was wholly or partially at fault. The notice shall be given by filing a pleading in the action designating such nonparty and setting forth such nonparty's name and last-known address, or the best identification of such nonparty that is possible under the circumstances, together with a brief statement of the basis for believing such nonparty to be at fault.

(c) Nothing in this act is meant to eliminate or diminish any defenses or immunities that currently exist, except as expressly specified in this act. Assessments of percentages of fault for nonparties are used only as a vehicle for accurately determining the fault of named parties. Where fault is assessed against nonparties, findings of such fault shall not subject any nonparty to liability in this or any other action, or be introduced as evidence of liability in any action.

SECTION 2. Tennessee Code Annotated, Title 29, Chapter 11, Part 1, is amended by adding the following as an appropriately numbered new section:

Section 29-11-107.

In any tort action, a defendant shall only be severally liable for the percentage of damages for which fault is attributed to such defendant by the trier of fact, and no defendant shall be held jointly liable for any damages.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.