

HB 364 -- TORT ACTIONS FOR DAMAGES

SPONSOR: Parkinson

COMMITTEE ACTION: Voted "do pass" by the Committee on General Laws by a vote of 7 to 5.

This bill changes the determination of a defendant's liability in a tort action for damages by specifying that the liability of each defendant for compensatory or punitive damages must be several and cannot be joint. Each defendant must be only liable for the amount of damages allocated to that defendant in direct proportion to his or her percentage of fault. A separate several judgment must be rendered against that defendant for that amount.

The court must multiply the total amount of damages recoverable by the plaintiff with regard to each defendant by the percentage of each defendant's fault to determine the maximum recoverable amount of judgment to be entered against each defendant. The court or jury must also consider the fault of all persons or entities who contributed to the alleged injury or damages, regardless of whether the person or entity 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 before trial, in accordance with required court rules, that a nonparty was wholly or partially at fault.

FISCAL NOTE: No impact on state funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill requires a defendant to pay only the percentage at which he or she is found to be at fault by the court and to not be forced to pay 100% of the damages assessed merely because he or she is found to be 51% or more at fault. The change will promote business growth and encourage investments without as much fear of losing a lawsuit.

Testifying for the bill were Representative Parkinson; Missouri Retailers Association; Missouri Grocers' Association; The Travelers Companies, Incorporated and Subsidiaries; State Farm Insurance Companies; American Insurance Association; American Council of Engineering Companies of Missouri; St. Louis RCGA; Missouri State Medical Association; Missouri Insurance Coalition; Greater Kansas City Chamber of Commerce; National Federation of Independent Business; Associated Builders and Contractors; BJC Health Systems; Missouri Restaurant Association; Missouri Propane Gas Association; Mariam Decker, Missouri Organization of Defense Lawyers; Associated Industries of Missouri; Missouri Chamber of Commerce and Industry; and Missouri Hospital Association.

OPPONENTS: Those who oppose the bill say that it places the burden on victims, their families, and health insurance companies instead of the defendant who is at fault. Judgments for damages are to make the defendant wholly responsible and to not place the financial burden of an accident on the victim. The bill threatens both of these goals.

Testifying against the bill were Brian McCallister, Missouri Association of Trial Attorneys; and John L. Davidson.