

SS#2 SB 847 -- COLLATERAL SOURCE RULE

SPONSOR: Emery (McGaugh)

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Civil and Criminal Proceedings by a vote of 8 to 3. Voted "Do Pass" by the Select Committee on Judiciary by a vote of 5 to 3.

This bill specifies that special damages claimed by the plaintiff at trial that have been satisfied by a payment from a defendant, the defendant's insurer, or authorized representative prior to trial are not recoverable. The defendant is entitled to deduct such payments towards special damages from any judgment as provided in current law.

Parties may introduce evidence of the actual cost, rather than the value, of the medical care or treatment to the plaintiff. The bill repeals a provision of law which provides that there is a rebuttable presumption that the value of the medical treatment provided is represented by the dollar amount necessary to satisfy the financial obligation to the health care provider. The actual cost of the medical care or treatment cannot exceed the dollar amounts paid by or on behalf of a patient whose care is at issue plus any remaining amount necessary to satisfy the financial obligation for medical care by a health care provider after adjustment for any contractual discounts, or price reduction.

This act is similar to SB 227 (2015).

PROPOSERS: Supporters say that it is the definition of "value" that is at issue here. The Deck v. Teasley case modified this definition. Both parties can introduce evidence of the cost of care rendered, however, any cost cannot exceed any dollar amounts paid or owed by the plaintiff for the treatment. This bill simplifies the definition and makes it clear what evidence will be allowed and ensures that what is awarded to plaintiffs is what is actually paid, or will actually have to be paid, for that medical care. This is all about making sure the plaintiff is made whole, and the plaintiff is not receiving amounts in excess of their actual damages.

Testifying for the bill were Senator Emery; Associated Industries Of Missouri; Ford Motor Company; The Doctors Company; Washington University; American Insurance Association; Missouri Chamber Of Commerce and Industry; Missouri State Medical Association; Missouri Hospital Association; Missouri Railroad Association; National Federation Of Independent Business; Glaxo Smith Kline; and the Missouri Petroleum Council -- A Division Of The American Petroleum Institute.

OPPONENTS: Those who oppose the bill say that this is a doctrine that has been part of Missouri jurisprudence for a long time. We do not want to reward a negligent wrongdoer just because the injured has insurance. The issue of payment of medical bills is not addressed until fault is established. To those concerned about a plaintiff windfall, they should know that windfalls almost never occur. There is a right of subrogation.

Testifying against the bill were Jay Benson, Missouri Association Of Trial Attorneys and Derrick Good.