

HCS HB 1298 & 1180 -- TORT ACTIONS FOR DAMAGES

SPONSOR: Franz

COMMITTEE ACTION: Voted "do pass" by the Committee on General Laws by a vote of 8 to 3.

This substitute 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 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that the bill will shift Missouri to pure several liability and is about fairness by requiring a defendant to only pay the monetary share of the plaintiff's damages that he or she is at fault for causing. This will provide a better climate for Missouri's businesses and employers are asking for this change.

Testifying for the bill were Representatives Franz and Parkinson; Missouri Chamber of Commerce and Industry; St. Louis Regional Chamber and Growth Association; Associated Industries of Missouri; State Farm Insurance Companies; Travelers Companies, Incorporated and Subsidiaries; American Insurance Association; Missouri Insurance Coalition; National Federation of Independent Business; Property Casualty Insurers Association of America; Greater Kansas City Chamber of Commerce; Missouri State Medical Association; Associated Builders and Contractors; Missouri Retailers Association; and Missouri Grocers' Association.

OPPONENTS: Those who oppose the bill say that the current system was designed to protect the damaged plaintiff by requiring the multiple defendants to pay for the damages they caused and there is no injustice in this type of system. The plaintiff should not have to incur the extra expense of trying to collect the monetary damages he or she suffered. The current system is not having a negative impact on the state's economy or businesses.

Testifying against the bill were David Zevan, Zevan and Davidson Law Firm; and Woody Cozad, Missouri Republican Attorneys.