

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 1131

Printer's No.: 1322

Sponsor: Senator Greenleaf

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Synopsis: This bill amends section 7102 of the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, relating to comparative negligence, specifying when joint and several liability applies to the recovery of damages in a civil action.

Summary:

General rule

As amended, section 7102 provides that where liability is attributed to more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of that defendant's liability to the amount of liability attributed to all defendants. Except as otherwise provided, a defendant's liability shall be several and not joint.

Exceptions

A defendant's liability shall be joint and several in the following situations:

- Intentional misrepresentation.
- An intentional tort.
- Where a defendant has been held liable for not less than 60% of the total liability.
- A release or threatened release of a hazardous substance under section 702 of the Hazardous Sites Cleanup Act.
- A civil action in which a defendant has violated section 497 of the Liquor Code.
- In the case of economic damages. "Economic damages" are defined as objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, and similar expenses.
- In a case where a minor has a beneficial interest. A "minor" is defined as a person less than 18 years of age.

Contribution

Where a defendant has been held jointly and severally liable and pays more than that defendant's proportionate share of the total liability, that defendant is entitled to recover contribution from defendants who have paid less than their proportionate share.

Workers' compensation

A person whose liability may be determined pursuant to section 7102 does not include an employer to the extent that the employer is granted immunity from liability pursuant to the Workers' Compensation Act.

Savings provisions

Nothing in section 7102 shall be construed to create, abolish or modify a cause of action or to limit a party's right to join another potentially responsible party.

Applicability and effective date

The amendment of section 7102 shall apply to causes of action which accrue on or after the effective date. This act takes effect immediately.

Background: House Bill 1 passed the House of Representatives on April 11, 2011 by a vote of 112 to 88. Identical legislation, Senate Bill 2, has been referred to the Senate Judiciary Committee. Senate Bill 1131 tracks the language in House Bill 1 and Senate Bill 2 but adds the exceptions for economic damages and children and the corresponding definitions. Joint liability will apply in these cases.

Prior history

In 2002 the General Assembly passed legislation containing provisions substantially the same as those provisions contained House Bill 1 and Senate Bill 2. The bill was signed into law as 2002 Act 57. In DeWeese v. Weaver, 880 A.2d 54 (Pa. Cmwlth. 2005), Act 57 was struck down because it contained multiple subjects. In 2006 the General Assembly passed Senate Bill 435, a nearly identical bill but that bill was vetoed by Governor Rendell.