
HOUSE BILL No. 1140

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-6-2-88; IC 34-20-8-1; IC 34-51-2.

Synopsis: Assessment of liability in civil actions. Removes the following from the law under which compensatory damages are awarded in civil actions: (1) The prohibition against informing the jury of an immunity defense available to a nonparty. (2) The requirement that the jury consider the fault of each person who caused or contributed to the claimant's injury or damage, regardless of whether the person was or could have been named as a party.

Effective: July 1, 2004.

Kersey

January 13, 2004, read first time and referred to Committee on Judiciary.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1140



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-6-2-88 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 88. (a) "Nonparty" for
3 purposes of IC 34-51-2, means a person who ~~caused or contributed to~~
4 ~~cause the alleged injury, death, or damage to property is or may be~~
5 **liable to the claimant in part or in whole for the damages claimed**
6 but who has not been joined in the action as a defendant.

7 (b) "Nonparty" **does not include an employer of a claimant.**

8 SECTION 2. IC 34-20-8-1, AS AMENDED BY P.L.1-1999,
9 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2004]: Sec. 1. (a) In a product liability action, the fault of the
11 person suffering the physical harm, as well as the fault of all others
12 who caused or contributed to cause the harm, **claimant, of the**
13 **defendant, and of any person who is a nonparty** shall be compared
14 by the trier of fact in accordance with IC 34-51-2-7, IC 34-51-2-8, or
15 IC 34-51-2-9.

16 (b) In assessing percentage of fault, the jury shall consider the fault
17 of all persons who contributed to the physical harm, regardless of



1 whether the person was or could have been named as a party, as long
2 as the nonparty was alleged to have caused or contributed to cause the
3 physical harm:

4 SECTION 3. IC 34-51-2-7 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) This section
6 applies to an action based on fault that is:

- 7 (1) brought against one (1) defendant or two (2) or more
- 8 defendants who may be treated as a single party; and
- 9 (2) tried to a jury.

10 (b) The court, unless all the parties agree otherwise, shall instruct
11 the jury to determine its verdict in the following manner:

12 (1) The jury shall determine the percentage of fault of the
13 claimant, of the defendant, and of any person who is a nonparty.
14 ~~The jury may not be informed of any immunity defense that is~~
15 ~~available to a nonparty. In assessing percentage of fault, the jury~~
16 ~~shall consider the fault of all persons who caused or contributed~~
17 ~~to cause the alleged injury, death, or damage to property, tangible~~
18 ~~or intangible, regardless of whether the person was or could have~~
19 ~~been named as a party.~~ The percentage of fault of parties to
20 the action may total less than one hundred percent (100%) if the jury
21 finds that fault contributing to cause the claimant's loss has also
22 come from a nonparty or nonparties.

23 (2) If the percentage of fault of the claimant is greater than fifty
24 percent (50%) of the total fault involved in the incident which
25 caused the claimant's death, injury, or property damage, the jury
26 shall return a verdict for the defendant and no further deliberation
27 of the jury is required.

28 (3) If the percentage of fault of the claimant is not greater than
29 fifty percent (50%) of the total fault, the jury then shall determine
30 the total amount of damages the claimant would be entitled to
31 recover if contributory fault were disregarded.

32 (4) The jury next shall multiply the percentage of fault of the
33 defendant by the amount of damages determined under
34 subdivision (3) and shall then enter a verdict for the claimant in
35 the amount of the product of that multiplication.

36 SECTION 4. IC 34-51-2-8 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) This section
38 applies to an action based on fault that:

- 39 (1) is brought against two (2) or more defendants; and
- 40 (2) is tried to a jury.

41 (b) The court, unless all the parties agree otherwise, shall instruct
42 the jury to determine its verdict in the following manner:

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1 (1) The jury shall determine the percentage of fault of the
 2 claimant, of the defendants, and of any person who is a nonparty.
 3 ~~The jury may not be informed of any immunity defense that might~~
 4 ~~be available to a nonparty. In assessing percentage of fault, the~~
 5 ~~jury shall consider the fault of all persons who caused or~~
 6 ~~contributed to cause the alleged injury, death, or damage to~~
 7 ~~property, tangible or intangible, regardless of whether the person~~
 8 ~~was or could have been named as a party.~~ The percentage of fault
 9 of parties to the action may total less than one hundred percent
 10 (100%) if the jury finds that fault contributing to cause the
 11 claimant's loss has also come from a nonparty or nonparties.
 12 (2) If the percentage of fault of the claimant is greater than fifty
 13 percent (50%) of the total fault involved in the incident which
 14 caused the claimant's death, injury, or property damage, the jury
 15 shall return a verdict for the defendants and no further
 16 deliberation of the jury is required.
 17 (3) If the percentage of fault of the claimant is not greater than
 18 fifty percent (50%) of the total fault, the jury shall then determine
 19 the total amount of damages the claimant would be entitled to
 20 recover if contributory fault were disregarded.
 21 (4) The jury next shall multiply the percentage of fault of each
 22 defendant by the amount of damages determined under
 23 subdivision (3) and shall enter a verdict against each defendant
 24 (and such other defendants as are liable with the defendant by
 25 reason of their relationship to a defendant) in the amount of the
 26 product of the multiplication of each defendant's percentage of
 27 fault times the amount of damages as determined under
 28 subdivision (3).

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