

SENATE BILL NO. 669

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

3740S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 537.060 and 537.067, RSMo, and to enact in lieu thereof four new sections relating to civil actions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 537.060 and 537.067, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be
3 known as sections 537.059, 537.060, 537.067, and 537.767, to
4 read as follows:

**537.059. In all actions in which there is any count
2 alleging a tort to recover damages and in which any party
3 contends that the damages were caused by the alleged fault
4 of more than one person or entity, the trier of fact shall
5 determine the amount of fault attributable to each person or
6 entity, regardless of whether the person or entity is a
7 party to the action, and regardless of whether the person or
8 entity has settled or been released from liability. Fault
9 of another person or entity may be alleged by any party to
10 the tort action in any claim, counterclaim, cross-claim, or
11 as an affirmative defense. Any determination by the trier
12 of fact as to the amount of fault attributable to a person
13 or entity not a party to the action at the time of trial
14 shall not be binding against or otherwise affect the rights
15 or liabilities of that person or entity.**

537.060. Defendants in a judgment founded on an action
2 for the redress of a private wrong shall be subject to

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3 contribution, and all other consequences of such judgment,
4 in the same manner and to the same extent as defendants in a
5 judgment in an action founded on contract. When an
6 agreement by release, covenant not to sue or not to enforce
7 a judgment is given in good faith to one of two or more
8 persons liable in tort for the same injury or wrongful
9 death, such agreement shall not discharge any of the other
10 tort-feasors for the damage unless the terms of the
11 agreement so provide[; however such agreement shall reduce
12 the claim by the stipulated amount of the agreement, or in
13 the amount of consideration paid, whichever is greater. The
14 agreement shall discharge the tort-feasor to whom it is
15 given from all liability for contribution or noncontractual
16 indemnity to any other tort-feasor. The term
17 "noncontractual indemnity" as used in this section refers to
18 indemnity between joint tort-feasors culpably negligent,
19 having no legal relationship to each other and does not
20 include indemnity which comes about by reason of contract,
21 or by reason of vicarious liability].

537.067. 1. In all tort actions for damages, if a
2 defendant is found to bear fifty-one percent or more of
3 fault, then such defendant shall be jointly and severally
4 liable for the amount of the judgment rendered against the
5 defendants **less the total of any stipulated amount in any**
6 **release, covenant not to sue or not to enforce a judgment**
7 **under any agreement with any other person or entity alleged**
8 **to have been at fault pursuant to section 537.059, or any**
9 **consideration paid by such person or entity, whichever is**
10 **greater.** If a defendant is found to bear less than fifty-
11 one percent of fault, then the defendant shall only be
12 responsible for the percentage of the judgment for which the
13 defendant is determined to be responsible by the trier of

14 fact; except that, a party is responsible for the fault of
15 another defendant or for payment of the proportionate share
16 of another defendant if any of the following applies:

17 (1) The other defendant was acting as an employee of
18 the party;

19 (2) The party's liability for the fault of another
20 person arises out of a duty created by the federal
21 Employers' Liability Act, 45 U.S.C. Section 51.

22 2. The defendants shall only be severally liable for
23 the percentage of punitive damages for which fault is
24 attributed to such defendant by the trier of fact.

25 3. In all tort actions, no party may disclose to the
26 trier of fact the impact of this section.

**537.767. 1. In any civil action for personal injury,
2 death, or property damage caused by a product, regardless of
3 the type of claims alleged or the theory of liability
4 asserted, the plaintiff shall prove, among other elements,
5 that the defendant designed, manufactured, sold, or leased
6 the particular product the use of which is alleged to have
7 caused the injury on which the claim is based, and not a
8 similar or equivalent product. Designers, manufacturers,
9 sellers, or lessors of products not identified as having
10 been used, ingested, or encountered by an allegedly injured
11 party shall not be held liable for any alleged injury. A
12 person, firm, corporation, association, partnership, or
13 other legal or business entity whose design is copied or
14 otherwise used by a manufacturer without the designer's
15 express authorization shall not be subject to liability for
16 personal injury, death, or property damage caused by the
17 manufacturer's product even if use of the design was
18 foreseeable.**

19 2. This section shall not alter or affect any other
20 provision of law, including those provisions that apply to
21 successor entities, distributors, component manufacturers,
22 or manufacturers who use component parts in assembling
23 products for sale as complete units or those provisions that
24 apply to the operation of a contract, including a licensing
25 agreement.

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