

FIRST REGULAR SESSION

# HOUSE BILL NO. 1540

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIEHL.

3153H.02I

JOSEPH ENGLER, Chief Clerk

## AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to comparative negligence or fault.

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

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.769, to read as follows:

**537.769. 1. In any action for damages for personal injury, property damage, or wrongful death based on negligence or an unreasonably unsafe or dangerous condition:**

**(1) The fact that the plaintiff may have been contributorily negligent or assumed a risk shall not bar recovery by the plaintiff except as provided in subsection 2 of this section; and**

**(2) The total damages that the plaintiff would otherwise be entitled to recover shall be diminished in proportion to the amount of negligence or fault attributable to the plaintiff.**

**2. (1) If the plaintiff's negligence or fault is determined to be fifty percent or more, the plaintiff shall be barred from any recovery of damages.**

**(2) The trier of fact shall determine:**

**(a) The total amount of damages the plaintiff would have been entitled to recover absent any contributory fault;**

**(b) The percentage of fault attributable to each party, including any third party who may be at fault; and**

**(c) Any reduction of the plaintiff's damages in proportion to the fault allocated to the plaintiff.**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           **3. If multiple defendants are found liable, the court shall:**

19           **(1) Determine each defendant's share of fault as a percentage of the total fault of**  
20 **all parties, including the plaintiff;**

21           **(2) Enter judgment against each defendant in an amount proportional to that**  
22 **defendant's share of the total damages, subject to the bar under subsection 2 of this**  
23 **section.**

24           **4. If it is determined that the plaintiff's percentage of fault meets or exceeds the**  
25 **threshold stated under subsection 2 of this section, the plaintiff shall recover no**  
26 **damages. The concept of joint and several liability shall not be applied in favor of a**  
27 **plaintiff whose recovery is barred under subsection 2 of this section.**

28           **5. The court shall instruct the jury on the application of comparative fault**  
29 **consistent with the provisions of this section, including the determination of the**  
30 **plaintiff's percentage of fault, the defendant's percentage of fault, and the bar to**  
31 **recovery if the plaintiff's fault meets or exceeds fifty percent.**

32           **6. The provisions of this section shall apply to any cause of action accruing on or**  
33 **after August 28, 2025.**

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