

SECOND REGULAR SESSION

HOUSE BILL NO. 2714

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIEHL.

6119H.01I

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, 2026.**

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