

By: Representatives Chism, Cameron, Formby,
Jennings, Lott, Martinson, Moore (60th),
Nicholson, Robertson, Robinson (84th)

To: Judiciary A

HOUSE BILL NO. 1280

1 AN ACT TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE JOINT AND SEVERAL LIABILITY IN TORT ACTIONS; AND FOR
3 RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 85-5-7, Mississippi Code of 1972, is
6 amended as follows:

7 85-5-7. (1) As used in this section "fault" means an act or
8 omission of a person which is a proximate cause of injury or death
9 to another person or persons, damages to property, tangible or
10 intangible, or economic injury, including but not limited to
11 negligence, malpractice, strict liability, absolute liability or
12 failure to warn. "Fault" shall not include any tort which results
13 from an act or omission committed with a specific wrongful intent.

14 (2) * * * In any civil action based on fault, the liability
15 for damages caused by two (2) or more persons shall not be joint
16 and several * * *.

17 (3) * * * In any civil action based on fault, the liability
18 for damages caused by two (2) or more persons shall be several
19 only, and not joint and several and a joint tort-feasor shall be
20 liable only for the amount of damages allocated to him in direct
21 proportion to his percentage of fault. In assessing percentages
22 of fault an employer and the employer's employee or a principal
23 and the principal's agent shall be considered as one (1) defendant
24 when the liability of such employer or principal has been caused
25 by the wrongful or negligent act or omission of the employee or
26 agent.



27 (4) Any defendant held jointly liable under this section
28 shall have a right of contribution against fellow joint
29 tort-feasors. A defendant shall be held responsible for
30 contribution to other joint tort-feasors only for the percentage
31 of fault assessed to such defendant.

32 (5) Nothing in this section shall eliminate or diminish any
33 defenses or immunities which currently exist, except as expressly
34 noted herein.

35 * * *

36 (6) In actions involving joint tort-feasors, the trier of
37 fact shall determine the percentage of fault for each party
38 alleged to be at fault.

39 (7) Nothing in this section shall be construed to create a
40 cause of action. Nothing in this section shall be construed, in
41 any way, to alter the immunity of any person.

42 **SECTION 2.** This act shall take effect and be in force from
43 and after July 1, 2002.

