

*****Adopted*****

AMENDMENT No. 4 TO AMENDMENT No. 1 PROPOSED TO

House Bill NO. 2

By Senator(s) Robertson

1 **AMEND** by deleting lines 125 through 172 and inserting in lieu
2 thereof the following:

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

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

12 * * *

13 (2) Except as may be otherwise provided in subsection (4) of
14 this section, in any civil action based on fault, the liability
15 for damages caused by two (2) or more persons shall be several
16 only, and not joint and several and a joint tort-feasor shall be
17 liable only for the amount of damages allocated to him in direct
18 proportion to his percentage of fault. In assessing percentages
19 of fault, an employer and the employer's employee or a principal
20 and the principal's agent shall be considered as one (1) defendant
21 when the liability of such employer or principal has been caused
22 by the wrongful or negligent act or omission of the employee or
23 agent.

24 * * *

25 (3) Nothing in this section shall eliminate or diminish any
26 defenses or immunities which currently exist, except as expressly
27 noted herein.

28 (4) Joint and several liability shall be imposed on all who
29 consciously and deliberately pursue a common plan or design to
30 commit a tortious act, or actively take part in it. Any person
31 held jointly and severally liable under this section shall have a
32 right of contribution from his fellow defendants acting in
33 concert.

34 (5) In actions involving joint tort-feasors, the trier of
35 fact shall determine the percentage of fault for each joint
36 tort-feasor, including named parties and absent tort-feasors
37 without regard to whether the joint tort-feasor is immune from
38 damages. Fault allocated to an immune tort-feasor shall not be
39 reallocated to any other tort-feasor.

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

43 **AMEND by deleting lines 371 through 394 and renumbering**
44 **subsequent sections accordingly.**

45 **AMEND by changing the period on line 1190 to a semicolon and**
46 **inserting the following:**

47 provided, however, that Section * of this act shall take effect
48 and be in force from and after its passage and shall apply to all
49 causes of action pending on, and filed after, that date.

50 **FURTHER, AMEND the title to conform.**