

By: Representatives Upshaw, Akins,  
Bondurant, Chism, Howell

To: Judiciary A

HOUSE BILL NO. 801

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

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

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

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

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

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

26 \* \* \*

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

30           \* \* \*

31           (5) In actions involving joint tort-feasors, the trier of  
32 fact shall determine the percentage of fault for each party  
33 alleged to be at fault.

34           \* \* \*

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

38           **SECTION 2.** This act shall take effect and be in force from  
39 and after July 1, 2004, and shall apply to causes of action filed  
40 on or after that date.