

By: Representative Formby

To: Judiciary A

HOUSE BILL NO. 1525

1 AN ACT TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF 1972, TO  
2 REVISE 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 \* \* \*

14 (2) Except as otherwise provided in subsection (5) of this  
15 section, in any civil action based on fault, the liability for  
16 damages caused by two (2) or more persons shall be several only,  
17 and not joint and several and a joint tort-feasor shall be liable  
18 only for the amount of damages allocated to him in direct  
19 proportion to his percentage of fault. In assessing percentages  
20 of fault an employer and the employer's employee or a principal  
21 and the principal's agent shall be considered as one (1) defendant  
22 when the liability of such employer or principal has been caused  
23 by the wrongful or negligent act or omission of the employee or  
24 agent.

25 (3) Any defendant held jointly liable under this section  
26 shall have a right of contribution against fellow joint  
27 tort-feasors. A defendant shall be held responsible for



28 contribution to other joint tort-feasors only for the percentage  
29 of fault assessed to such defendant.

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

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

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

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

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

