

By: Representative Tullos

To: Judiciary A

HOUSE BILL NO. 145

1 AN ACT TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE DEFENDANTS TO IDENTIFY JOINT TORTFEASORS IN THEIR ANSWERS
3 TO COMPLAINTS; TO PROVIDE THAT ANY DEFENDANT SEEKING TO; AND FOR
4 RELATED PURPOSES.

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

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

8 85-5-7. (1) As used in this section, "fault" means an act
9 or omission of a person which is a proximate cause of injury or
10 death to another person or persons, damages to property, tangible
11 or intangible, or economic injury, including, but not limited to,
12 negligence, malpractice, strict liability, absolute liability or
13 failure to warn. Except as otherwise provided in this subsection
14 (1), "fault" shall not include any tort which results from an act
15 or omission committed with a specific wrongful intent. For any
16 premises-liability action, as defined under Section 11-1-66.1(7),
17 alleging injury as a result of the willful, wanton or intentional
18 tortious conduct of a third party on commercial or other real
19 property in the State of Mississippi, "fault" shall include any



tort which results from an act or omission committed with a specific wrongful intent.

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

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

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

(5) (a) In actions involving joint tortfeasors, the trier of fact shall determine the percentage of fault for each party alleged to be at fault without regard to whether the joint



tortfeasor is immune from damages. Fault allocated under this subsection to an immune tortfeasor or a tortfeasor whose liability is limited by law shall not be reallocated to any other tortfeasor.

(b) In actions involving joint tortfeasors, the defendant shall, in the answer to the complaint, identify the person or entity to which the trier of fact is to allocate fault. The defendant seeking to allocate fault shall have the same burden of proof as any plaintiff who seeks to allocate fault. A defendant's failure to identify a joint tortfeasor waives the defendant's right to allocate fault to such person or entity.

(c) Any party seeking to allocate fault to a person or entity who is not a party to the action shall bring the person or entity into the action as a party. The court shall allow such person or entity to be added as a party to the action.

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2025.

