
HOUSE BILL 2828

State of Washington 58th Legislature 2004 Regular Session

By Representatives Lantz, Moeller, Cody, Morrell and Darneille

Read first time 01/21/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to the liability of hospitals for noneconomic
2 damages in actions under chapter 7.70 RCW; and amending RCW 4.22.070.

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

4 **Sec. 1.** RCW 4.22.070 and 1993 c 496 s 1 are each amended to read
5 as follows:

6 (1) In all actions involving fault of more than one entity, the
7 trier of fact shall determine the percentage of the total fault which
8 is attributable to every entity which caused the claimant's damages
9 except entities immune from liability to the claimant under Title 51
10 RCW. The sum of the percentages of the total fault attributed to at-
11 fault entities shall equal one hundred percent. The entities whose
12 fault shall be determined include the claimant or person suffering
13 personal injury or incurring property damage, defendants, third-party
14 defendants, entities released by the claimant, entities with any other
15 individual defense against the claimant, and entities immune from
16 liability to the claimant, but shall not include those entities immune
17 from liability to the claimant under Title 51 RCW. Judgment shall be
18 entered against each defendant except those who have been released by
19 the claimant or are immune from liability to the claimant or have

1 prevailed on any other individual defense against the claimant in an
2 amount which represents that party's proportionate share of the
3 claimant's total damages. The liability of each defendant shall be
4 several only and shall not be joint except:

5 (a) A party shall be responsible for the fault of another person or
6 for payment of the proportionate share of another party where both were
7 acting in concert or when a person was acting as an agent or servant of
8 the party.

9 (b)(i) Except as provided in (b)(ii) of this subsection, if the
10 trier of fact determines that the claimant or party suffering bodily
11 injury or incurring property damages was not at fault, the defendants
12 against whom judgment is entered shall be jointly and severally liable
13 for the sum of their proportionate shares of the ((claimants
14 ~~claimant's~~)) claimant's total damages.

15 (ii) Subsection (b)(i) of this subsection does not apply to a
16 hospital, as defined in RCW 70.41.020, in all cases governed by chapter
17 7.70 RCW with respect to judgments for noneconomic damages where the
18 percentage of total fault attributed to the hospital is less than
19 twenty-five percent. In all cases governed by chapter 7.70 RCW where
20 the percentage of total fault that is attributed to a hospital is less
21 than twenty-five percent and where the case would otherwise come under
22 (b)(i) of this subsection, the liability of the hospital for
23 noneconomic damages is several only. For the purposes of this section,
24 "noneconomic damages" has the meaning given in RCW 4.56.250.

25 (2) If a defendant is jointly and severally liable under one of the
26 exceptions listed in subsections (1)(a) or (1)(b) of this section, such
27 defendant's rights to contribution against another jointly and
28 severally liable defendant, and the effect of settlement by either such
29 defendant, shall be determined under RCW 4.22.040, 4.22.050, and
30 4.22.060.

31 (3)(a) Nothing in this section affects any cause of action relating
32 to hazardous wastes or substances or solid waste disposal sites.

33 (b) Nothing in this section shall affect a cause of action arising
34 from the tortious interference with contracts or business relations.

35 (c) Nothing in this section shall affect any cause of action
36 arising from the manufacture or marketing of a fungible product in a

1 generic form which contains no clearly identifiable shape, color, or
2 marking.

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