

2ESSB 6508 - H AMD TO WAYS COMM AMD (H-5513.1/10) **1471**

By Representative Ross

NOT ADOPTED 3/04/2010

1 On page 1, at the beginning of line 3 of the striking amendment,
2 insert the following:

3 "NEW SECTION. Sec. 1. The legislature finds that it is only fair
4 and just that persons found liable for damages in actions as expanded
5 under this act that are based on a parent's significant involvement in
6 a child's life should be responsible only for their proportionate
7 share of fault."

8

9 Renumber the remaining sections consecutively and correct internal
10 references accordingly.

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12 On page 2, after line 2 of the striking amendment, insert the
13 following:

14 "(3) In an action under RCW 4.20.010 that is based on a parent's
15 significant involvement in an adult child's life, the liability of
16 each defendant against whom judgment is entered is several and not
17 joint."

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19 On page 2, after line 36 of the striking amendment, insert the
20 following:

21 "(5) In an action under this section that is based on a parent's
22 significant involvement in a child's life, the liability of each
23 defendant against whom judgment is entered is several and not joint."

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25 On page 4, line 8 of the striking amendment, after "death" insert
26 "."

27

1 (5) In an action under this section that is based on a parent's
2 significant involvement in a child's life, the liability of each
3 defendant against whom judgment is entered is several and not joint"
4

5 On page 5, after line 12 of the striking amendment, insert the
6 following:

7 "(6) In an action under this section that is based on a parent's
8 significant involvement in a child's life, the liability of defendant
9 against whom judgment is entered is several and not joint.

10
11 **Sec. 5.** RCW 4.22.070 and 1993 c 496 s 1 are each amended to read
12 as follows:

13 (1) In all actions involving fault of more than one entity, the
14 trier of fact shall determine the percentage of the total fault which
15 is attributable to every entity which caused the claimant's damages
16 except entities immune from liability to the claimant under Title 51
17 RCW. The sum of the percentages of the total fault attributed to at-
18 fault entities shall equal one hundred percent. The entities whose
19 fault shall be determined include the claimant or person suffering
20 personal injury or incurring property damage, defendants, third-party
21 defendants, entities released by the claimant, entities with any other
22 individual defense against the claimant, and entities immune from
23 liability to the claimant, but shall not include those entities immune
24 from liability to the claimant under Title 51 RCW. Judgment shall be
25 entered against each defendant except those who have been released by
26 the claimant or are immune from liability to the claimant or have
27 prevailed on any other individual defense against the claimant in an
28 amount which represents that party's proportionate share of the
29 claimant's total damages. The liability of each defendant shall be
30 several only and shall not be joint except in the following
31 circumstances:

32 (a) A party shall be responsible for the fault of another person
33 or for payment of the proportionate share of another party where both
34

1 were acting in concert or when a person was acting as an agent or
2 servant of the party.

3 (b) If the trier of fact determines that the claimant or party
4 suffering bodily injury or incurring property damages was not at
5 fault, the defendants against whom judgment is entered shall be
6 jointly and severally liable for the sum of their proportionate shares
7 of the ~~((claimants))~~ claimant's total damages, except as otherwise
8 provided in RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010.

9 (2) If a defendant is jointly and severally liable under one of
10 the exceptions listed in subsections (1)(a) or (1)(b) of this section,
11 such defendant's rights to contribution against another jointly and
12 severally liable defendant, and the effect of settlement by either
13 such defendant, shall be determined under RCW 4.22.040, 4.22.050, and
14 4.22.060.

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

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

20 (c) Nothing in this section shall affect any cause of action
21 arising from the manufacture or marketing of a fungible product in a
22 generic form which contains no clearly identifiable shape, color, or
23 marking."

24
25 Renumber the remaining sections consecutively and correct internal
26 references accordingly.

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EFFECT: Provides a legislative finding that it is only fair and
just to hold each defendant responsible for his or her own
proportionate share of fault in actions based on the expanded
provisions of the act. Provides that in a wrongful death or
survival action that is based on a parent's significant
involvement in a child's life, the liability of each defendant is
several and not joint.

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