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HOUSE BILL 1984

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Shea and Kristiansen

Read first time 03/07/13. Referred to Committee on Judiciary.

1            AN ACT Relating to claims against the Washington state department  
2 of transportation; amending RCW 4.22.070; and providing an effective  
3 date.

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

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

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

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

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

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

16 (ii) (b)(i) of this subsection does not apply to the Washington  
17 state department of transportation in an action for damages.

18 (2) If a defendant is jointly and severally liable under one of the  
19 exceptions listed in subsection(~~(s)~~) (1)(a) or (~~(1)~~)(b) of this  
20 section, such defendant's rights to contribution against another  
21 jointly and severally liable defendant, and the effect of settlement by  
22 either such defendant, shall be determined under RCW 4.22.040,  
23 4.22.050, and 4.22.060.

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

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

28 (c) Nothing in this section shall affect any cause of action  
29 arising from the manufacture or marketing of a fungible product in a  
30 generic form which contains no clearly identifiable shape, color, or  
31 marking.

32 NEW SECTION. Sec. 2. If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other  
35 persons or circumstances is not affected.

1        NEW SECTION.   **Sec. 3.**   This act takes effect August 1, 2013.

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