

House Bill 2557

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs trier of fact in civil action to compare fault of claimant with fault of all third party defendants, whether or not third party defendant is liable to claimant.

A BILL FOR AN ACT

1
2 Relating to comparative negligence in civil actions; creating new provisions; and amending ORS
3 31.600.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 31.600 is amended to read:

6 31.600. (1) Contributory negligence shall not bar recovery in an action by any person or the le-
7 gal representative of the person to recover damages for death or injury to person or property if the
8 fault attributable to the claimant was not greater than the combined fault of all persons specified
9 in subsection (2) of this section, but any damages allowed shall be diminished in the proportion to
10 the percentage of fault attributable to the claimant. This section is not intended to create or abolish
11 any defense.

12 (2) The trier of fact shall compare the fault of the claimant with the fault of any party against
13 whom recovery is sought, the fault of third party defendants [*who are*], **whether or not the third**
14 **party defendant is** liable in tort to the claimant, and the fault of any person with whom the
15 claimant has settled. The failure of a claimant to make a direct claim against a third party defend-
16 ant does not affect the requirement that the fault of the third party defendant be considered by the
17 trier of fact under this subsection. [*Except for persons who have settled with the claimant, there shall*
18 *be no comparison of fault with any person.*]

19 [*(a) Who is immune from liability to the claimant;*]

20 [*(b) Who is not subject to the jurisdiction of the court; or*]

21 [*(c) Who is not subject to action because the claim is barred by a statute of limitation or statute*
22 *of ultimate repose.*]

23 (3) A defendant who files a third party complaint against a person alleged to be at fault in the
24 matter, or who alleges that a person who has settled with the claimant is at fault in the matter, has
25 the burden of proof in establishing:

26 (a) The fault of the third party defendant or the fault of the person who settled with the claim-
27 ant; and

28 (b) That the fault of the third party defendant or the person who settled with the claimant was
29 a contributing cause to the injury or death under the law applicable in the matter.

30 [(4) *Any party to an action may seek to establish that the fault of a person should not be considered*
31 *by the trier of fact by reason that the person does not meet the criteria established by subsection (2)*

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 *of this section for the consideration of fault by the trier of fact.]*

2 [(5)] (4) This section does not prevent a party from alleging that the party was not at fault in
3 the matter because the injury or death was the sole and exclusive fault of a person who is not a
4 party in the matter.

5 **SECTION 2. The amendments to ORS 31.600 by section 1 of this 2013 Act apply only to**
6 **actions commenced as described in ORS 12.020 on or after the effective date of this 2013 Act.**

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