

# House Bill 3019

Sponsored by Representative CONGER

## 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**.

Provides that, if amount paid in settlement is more than person's share of obligation to claimant, amount exceeding person's share of obligation is allocated to reduce obligations of other persons based on percentages of fault determined by trier of fact.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to damages; creating new provisions; amending ORS 31.610; and declaring an emergency.

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

3 **SECTION 1.** ORS 31.610 is amended to read:

4 31.610. (1) Except as otherwise provided in this section, in any civil action arising out of bodily  
5 injury, death or property damage, including claims for emotional injury or distress, loss of care,  
6 comfort, companionship and society, and loss of consortium, the liability of each defendant for  
7 damages awarded to plaintiff shall be several only and shall not be joint.

8 (2) In any action described in subsection (1) of this section, the court shall determine the award  
9 of damages to each claimant in accordance with the percentages of fault determined by the trier of  
10 fact under ORS 31.605 and shall enter judgment against each party determined to be liable. The  
11 court shall enter a judgment in favor of the plaintiff against any third party defendant who is found  
12 to be liable in any degree, even if the plaintiff did not make a direct claim against the third party  
13 defendant. The several liability of each defendant and third party defendant shall be set out sepa-  
14 rately in the judgment, based on the percentages of fault determined by the trier of fact under ORS  
15 31.605. The court shall calculate and state in the judgment a monetary amount reflecting the share  
16 of the obligation of each person specified in ORS 31.600 (2). **Except as provided in subsection (3)**  
17 **of this section**, each person's share of the obligation shall be equal to the total amount of the  
18 damages found by the trier of fact, with no reduction for amounts paid in settlement of the claim  
19 or by way of contribution, multiplied by the percentage of fault determined for the person by the  
20 trier of fact under ORS 31.605.

21 (3) **If the amount paid in settlement by a person specified in ORS 31.600 (2) is more than**  
22 **the person's share of the obligation to a claimant calculated under subsection (2) of this**  
23 **section, the amount exceeding the person share of the obligation shall be allocated to reduce**  
24 **the obligations of the other persons specified in ORS 31.600 (2) based on the percentages of**  
25 **fault determined by the trier of fact under ORS 31.605.**

26 [(3)] (4) Upon motion made not later than one year after judgment has become final by lapse of  
27 time for appeal or after appellate review, the court shall determine whether all or part of a party's  
28 share of the obligation determined under subsection (2) of this section is uncollectible. If the court  
29 determines that all or part of any party's share of the obligation is uncollectible, the court shall  
30

**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 reallocate any uncollectible share among the other parties. The reallocation shall be made on the  
 2 basis of each party's respective percentage of fault determined by the trier of fact under ORS 31.605.  
 3 The claimant's share of the reallocation shall be based on any percentage of fault determined to be  
 4 attributable to the claimant by the trier of fact under ORS 31.605, plus any percentage of fault at-  
 5 tributable to a person who has settled with the claimant. Reallocation of obligations under this  
 6 subsection does not affect any right to contribution from the party whose share of the obligation is  
 7 determined to be uncollectible. Unless the party has entered into a covenant not to sue or not to  
 8 enforce a judgment with the claimant, reallocation under this subsection does not affect continuing  
 9 liability on the judgment to the claimant by the party whose share of the obligation is determined  
 10 to be uncollectible.

11 [(4)] (5) Notwithstanding subsection [(3)] (4) of this section, a party's share of the obligation to  
 12 a claimant may not be increased by reason of reallocation under subsection [(3)] (4) of this section  
 13 if:

14 (a) The percentage of fault of the claimant is equal to or greater than the percentage of fault  
 15 of the party as determined by the trier of fact under ORS 31.605; or

16 (b) The percentage of fault of the party is 25 percent or less as determined by the trier of fact  
 17 under ORS 31.605.

18 [(5)] (6) If any party's share of the obligation to a claimant is not increased by reason of the  
 19 application of subsection [(4)] (5) of this section, the amount of that party's share of the reallocation  
 20 shall be considered uncollectible and shall be reallocated among all other parties who are not sub-  
 21 ject to subsection [(4)] (5) of this section, including the claimant, in the same manner as otherwise  
 22 provided for reallocation under subsection [(3)] (4) of this section.

23 [(6)] (7) This section does not apply to:

24 (a) A civil action resulting from the violation of a standard established by Oregon or federal  
 25 statute, rule or regulation for the spill, release or disposal of any hazardous waste, as defined in  
 26 ORS 466.005, hazardous substance, as defined in ORS 453.005 or radioactive waste, as defined in ORS  
 27 469.300.

28 (b) A civil action resulting from the violation of Oregon or federal standards for air pollution,  
 29 as defined in ORS 468A.005 or water pollution, as defined in ORS 468B.005.

30 **SECTION 2. The amendments to ORS 31.610 by section 1 of this 2013 Act apply only to**  
 31 **causes of action that arise on or after the effective date of this 2013 Act.**

32 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**  
 33 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
 34 **on its passage.**