



# State of Tennessee

## PUBLIC CHAPTER NO. 317

### SENATE BILL NO. 56

By Kelsey, Gardenhire, Overbey

Substituted for: House Bill No. 1099

By Durham, Womick, Lamberth, Casada, Rich, Littleton, Holt, Dawn White, Ragan, Carter, Eldridge

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 11, Part 1, relative to the doctrine of joint and several liability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 11, Part 1, is amended by adding the following new section:

29-11-107.

(a) If multiple defendants are found liable in a civil action governed by comparative fault, a defendant shall only be severally liable for the percentage of damages for which fault is attributed to such defendant by the trier of fact, and no defendant shall be held jointly liable for any damages.

(b) Notwithstanding subsection (a), the doctrine of joint and several liability remains in effect:

(1) To apportion financial responsibility in a civil conspiracy among two (2) or more at-fault defendants who, each having the intent and knowledge of the other's intent, accomplish by concert an unlawful purpose, or accomplish by concert a lawful purpose by unlawful means, which results in damage to the plaintiff; and

(2) Among manufacturers only in a product liability action as defined in § 29-28-102, but only if such action is based upon a theory of strict liability or breach of warranty. Nothing in this subsection (b) eliminates or affects the limitations on product liability actions found in § 29-28-106.

(c) Nothing in this section eliminates or affects the doctrines of vicarious liability or respondeat superior.

(d) Nothing in this section limits the ability of the trier of fact to allocate fault to a nonparty to the suit, including, but not limited to, an immune third party or a settling party, person, or entity. Allocations of fault to nonparties shall be used only to determine the liability of named parties and shall not subject nonparties to liability in the action in which the allocation occurred or in any other action.

(e) Nothing in this section eliminates or diminishes:

(1) The filing of cross-claims or counterclaims against any party or third party under Tennessee Rules of Civil Procedure 13 and 14;

(2) The assertion by a party of rights to contribution or indemnity;

(3) The assertion by a party of comparative fault under Tennessee Rule of Civil Procedure 8.03;

(4) The doctrine of superseding and independent intervening cause; or

(5) Any defenses or immunities that exist as of the effective date of this act.

(f) This section shall not prevent parties from entering into a legally enforceable contract that allocates fault in a civil action among the parties to the contract.

SECTION 2. This act shall take effect July 1, 2013, the public welfare requiring it, and shall apply to all actions accruing on or after that date.

SENATE BILL NO. 56

PASSED: April 15, 2013

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 29<sup>th</sup> day of April 2013

  
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BILL HASLAM, GOVERNOR