



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5795

Introduced 2/10/2010, by Rep. Ron Stephens

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1117  
740 ILCS 100/3  
740 ILCS 100/4 rep.

from Ch. 110, par. 2-1117  
from Ch. 70, par. 303

Amends the Code of Civil Procedure. Provides that in actions arising out of bodily injury, death, or damage to property based on negligence or product liability based on strict tort liability there will not be joint and several liability, rather when more than one defendant is found to be liable, a defendant will only be liable for that percentage of the plaintiff's damages, found by the trier of fact, that the defendant's percentage of contributory fault, found by the trier of fact, represents. Provides that those provisions do not apply when the plaintiff is barred from recovering damages because the plaintiff's contributory fault is more than 50% of the proximate cause of the injury, death, or damage to property. Amends the Joint Tortfeasor Contribution Act requiring, in the event that the obligation of one or more tortfeasors is uncollectible, the remaining tortfeasors to share, pro rata, the unpaid portion. Repeals Section stating that a plaintiff's right to recover the full amount of his or her tort judgment from any one or more defendants is unaffected by the Contribution Act.

LRB096 20479 AJ0 36135 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 2-1117 as follows:

6 (735 ILCS 5/2-1117) (from Ch. 110, par. 2-1117)

7 Sec. 2-1117. Liability ~~Joint liability~~. Except as provided  
8 in Section 2-1118, in actions on account of bodily injury or  
9 death or physical damage to property, based on negligence, or  
10 product liability based on strict tort liability in which  
11 recovery is predicated upon fault, each defendant found liable,  
12 as determined by the trier of fact, is liable for only that  
13 percentage of the plaintiff's damages, as determined by the  
14 trier of fact, that represents the contributory fault  
15 chargeable to that defendant in the comparison of the  
16 plaintiff's fault with the fault of all tortfeasors whose fault  
17 was a proximate cause of the death, injury, loss, or damage for  
18 which recovery is sought. Except when the plaintiff is barred  
19 from recovering damages because the trier of fact finds that  
20 the contributory fault on the part of the plaintiff is more  
21 than 50% of the proximate cause of the injury or damage for  
22 which recovery is sought, the plaintiff shall be barred from  
23 recovering damages from a defendant that is in excess of the

1 amount of damages obtained by applying the percentage of  
2 contributing fault of that defendant to the amount of the  
3 plaintiff's damages, as determined by the trier of fact. No  
4 defendant shall be jointly and severally liable for plaintiff's  
5 damages., ~~all defendants found liable are jointly and severally~~  
6 ~~liable for plaintiff's past and future medical and medically~~  
7 ~~related expenses. Any defendant whose fault, as determined by~~  
8 ~~the trier of fact, is less than 25% of the total fault~~  
9 ~~attributable to the plaintiff, the defendants sued by the~~  
10 ~~plaintiff, and any third party defendant except the plaintiff's~~  
11 ~~employer, shall be severally liable for all other damages. Any~~  
12 ~~defendant whose fault, as determined by the trier of fact, is~~  
13 ~~25% or greater of the total fault attributable to the~~  
14 ~~plaintiff, the defendants sued by the plaintiff, and any third~~  
15 ~~party defendants except the plaintiff's employer, shall be~~  
16 ~~jointly and severally liable for all other damages.~~

17 (Source: P.A. 93-10, eff. 6-4-03; 93-12, eff. 6-4-03.)

18 Section 10. The Joint Tortfeasor Contribution Act is  
19 amended by changing Section 3 as follows:

20 (740 ILCS 100/3) (from Ch. 70, par. 303)

21 Sec. 3. Amount of Contribution. The pro rata share of each  
22 tortfeasor shall be determined in accordance with his relative  
23 culpability. However, no person shall be required to contribute  
24 to one seeking contribution an amount greater than his pro rata

1 ~~share unless the obligation of one or more of the joint~~  
2 ~~tortfeasors is uncollectable. In that event, the remaining~~  
3 ~~tortfeasors shall share the unpaid portions of the~~  
4 ~~uncollectable obligation in accordance with their pro rata~~  
5 ~~liability.~~

6 ~~If equity requires, the collective liability of some as a~~  
7 ~~group shall constitute a single share.~~

8 (Source: P.A. 81-601.)

9 (740 ILCS 100/4 rep.)

10 Section 15. The Joint Tortfeasor Contribution Act is  
11 amended by repealing Section 4.