

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 526

H.P. 392 House of Representatives, February 24, 1987
Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative RUHLIN of Brewer.
Cosponsored by Representatives DAVIS of Monmouth, PARADIS
of Augusta, and Senator COLLINS of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Abolish Joint and Several
Liability.

Be it enacted by the People of the State of Maine as
follows:

14 MRSA c. 310 is enacted to read:

CHAPTER 310

JOINT AND SEVERAL LIABILITY ABOLITION ACT

§1471. Short title

This Act shall be known and may be cited as the
"Joint and Several Liability Abolition Act."

§1472. Definitions

1 As used in this Act, unless the context otherwise
2 indicates, the following terms have the following
3 meanings.

4 1. Damages. "Damages" means pain, suffering,
5 inconvenience, physical impairment, disfigurement,
6 mental anguish, emotional distress, loss of society
7 and companionship, loss of consortium, injury to rep-
8 utation, humiliation, any other theory of damages
9 such as fear of loss or illness or injury, loss of
10 earnings and earning capacity, loss of income, medi-
11 cal expenses and medical care, rehabilitation ser-
12 vices, custodial care, burial costs, loss of use of
13 property, costs of repair or replacement of property,
14 costs of obtaining substitute domestic services, loss
15 of employment, loss of business or employment oppor-
16 tunities and other objectively verifiable monetary
17 losses. It does not include any punitive damages.

18 2. Fault. "Fault" means an act or omission of a
19 person which is a proximate cause of injury or death
20 to another person or persons, damages to property,
21 tangible or intangible, or economic injury, includ-
22 ing, but not limited to, negligence, malpractice,
23 strict liability, absolute liability or failure to
24 warn. "Fault" does not include any tort which re-
25 sults from an act or omission committed with a spe-
26 cific wrongful intent.

27 3. Person. "Person" means any individual, cor-
28 poration, company, association, firm, partnership,
29 society, joint stock company or any other entity, in-
30 cluding any governmental entity or unincorporated as-
31 sociation of persons.

32 §1473. Several liability

33 In any action for personal injury, property dam-
34 age or wrongful death, the liability of each defend-
35 ant for damages shall be several only and shall not
36 be joint. Each defendant shall be liable only for
37 the amount of damages allocated to that defendant in
38 direct proportion to that defendant's percentage of
39 fault, and a separate judgment shall be rendered
40 against the defendant for that amount. To determine
41 the amount of judgment to be entered against each de-
42 fendant, the court, with regard to each defendant,

1 shall multiply the total amount of damages recover-
2 able by the plaintiff by the percentage of each de-
3 fendant's fault and that amount shall be the maximum
4 recoverable against that defendant.

5 §1474. Fault of nonparties

6 In assessing percentages of fault, the trier of
7 fact shall consider the fault of all persons who con-
8 tributed to the alleged injury or death or damage to
9 property, tangible or intangible, regardless of
10 whether the person was, or could have been named as a
11 party to the suit. Negligence or fault of a nonparty
12 may be considered if the plaintiff entered into a
13 settlement agreement with the nonparty or if the de-
14 fending party gives notice within 120 days of the
15 date of trial that a nonparty was wholly or partially
16 at fault. The notice shall be given by filing a
17 pleading in the action designating the nonparty and
18 setting forth the nonparty's name and last-known ad-
19 dress, or the best identification of the nonparty
20 which is possible under the circumstances, together
21 with a brief statement of the basis for believing the
22 nonparty to be at fault.

23 Nothing in this Act is meant to eliminate or di-
24 minish any defenses or immunities which currently ex-
25 ist, except as expressly noted in this Act. Assess-
26 ments of percentages of fault for nonparties are used
27 only as a vehicle for accurately determining the
28 fault of named parties. Where fault is assessed
29 against nonparties, findings of such fault shall not
30 subject any nonparty to liability in this or any oth-
31 er action or be introduced as evidence of liability
32 in any action.

33 §1475. Concert of action

34 Joint liability shall be imposed on all who con-
35 sciously and deliberately pursue a common plan or de-
36 sign to commit a tortious act or actively take part
37 in it. Any person held jointly liable under this
38 section shall have a right of contribution from his
39 fellow defendants acting in concert. A defendant
40 shall be held responsible only for the portion of
41 fault assessed to those with whom he acted in concert
42 under this section.

1 §1476. Burden of proof

2 The burden of alleging and proving fault is upon
3 the person who seeks to establish that fault.

4 §1477. Limitations

5 Nothing in this Act may be construed to create a
6 cause of action. Nothing in this Act may be con-
7 strued, in any way, to alter the immunity of any per-
8 son.

9 STATEMENT OF FACT

10 This bill enacts the "Joint and Several Liability
11 Abolition Act."

12 1226020587