

# 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)

(NEW DRAFT OF H.P. 392, L.D. 526)  
(NEW TITLE)  
SECOND REGULAR SESSION

---

ONE HUNDRED AND THIRTEENTH LEGISLATURE

---

Legislative Document

NO. 2524

---

H.P. 1844 House of Representatives, March 15, 1988  
Reported by the Minority from the Committee on Judiciary  
and printed under Joint Rule 2.

EDWIN H. PERT, Clerk  
Original bill sponsored 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-EIGHT

---

1 AN ACT to Modify Joint and Several  
2 Liability.  
3

---

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

6 Sec. 1. 14 MRSA §156, last ¶, as enacted by PL  
7 1969, c. 399, §2, is repealed.

8 Sec. 2. 14 MRSA §156-A is enacted to read:

1 §156-A. Joint and several liability

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

5 A. "Economic damages" means objectively  
6 verifiable pecuniary damages arising from medical  
7 expenses and care, rehabilitation services,  
8 custodial care, loss of earnings and earning  
9 capacity, loss of income, burial costs, loss of  
10 use of property, costs of repair or replacement of  
11 property, costs of obtaining substitute domestic  
12 services, loss of employment, loss of employment  
13 or business opportunities and other objectively  
14 verifiable monetary losses.

15 B. "Environmental action" means a civil action  
16 seeking damages for property damage, personal  
17 injury or death when the cause of the harm is the  
18 use, disposal, handling, storage or treatment of  
19 or exposure to chemicals, hazardous waste or toxic  
20 substances.

21 C. "Fault" has the meaning set forth in section  
22 156.

23 D. "Noneconomic damages" means subjective,  
24 nonpecuniary damages, including punitive damages  
25 or damages arising from pain, suffering,  
26 inconvenience, physical impairment, disfigurement,  
27 mental anguish, emotional distress, loss of  
28 society and companionship, loss of consortium,  
29 injury to reputation, humiliation and other  
30 nonpecuniary damages, including those arising from  
31 theories of damages such as fear of loss, illness  
32 or injury.

33 2. Joint and several liability. Except as  
34 provided in subsection 3 and Title 28-A, section 2512,  
35 in actions involving multiple defendants, which may be  
36 subject to the defense under section 156, each  
37 defendant shall be jointly and severally liable to the  
38 plaintiff for the full amount of the plaintiff's

1 economic and noneconomic damages. Each defendant  
2 shall have the right through the use of special  
3 interrogatories to request of the fact finder the  
4 percentage of fault contributed by each defendant.

5 3. Several liability. Except in environmental  
6 actions, if any defendant in an action involving  
7 multiple defendants, which may be subject to the  
8 defense under section 156, requests of the fact finder  
9 the percentage of fault contributed by each defendant,  
10 a defendant shall be severally liable for noneconomic  
11 damages if:

12 A. The fact finder establishes the percentage  
13 contributed by each defendant to the aggregate  
14 fault of the defendants; and

15 B. The fact finder finds that the percentage of  
16 fault contributed by a defendant under paragraph A  
17 is less than 25%.

18 4. Damages recoverable. In an action to which  
19 subsection 3 applies, the court shall multiply the  
20 amount of noneconomic damages recoverable by the  
21 plaintiff, after the fact finder has made any  
22 reduction required by section 156, by the percentage  
23 of fault of each defendant who meets the requirements  
24 for several liability established in subsection 3.  
25 The amount determined under this subsection shall be  
26 the maximum amount recoverable for noneconomic damages  
27 from each such defendant.

28 Sec. 3. Application. This Act applies to  
29 causes of action that accrue on or after the effective  
30 date of this Act.

31 STATEMENT OF FACT

32 This new draft abolishes joint liability in  
33 limited circumstances. Multiple defendants in most  
34 civil actions in which the defense of comparative  
35 negligence may be raised, if applicable, will remain  
36 jointly liable for all damages awarded unless a

1 defendant is found to be less than 25% at fault as  
2 compared with the other defendants. For that  
3 defendant, liability will be several only with regard  
4 to noneconomic damages. Thus, that defendant will  
5 only be responsible for his portion of the noneconomic  
6 damages, but will remain jointly liable for all  
7 economic damages. Defendants 25% or more at fault  
8 when compared to the other defendants will be jointly  
9 liable for all economic and noneconomic damages.

10 The several liability exception established in  
11 this new draft does not apply to environmental  
12 actions. In those cases, all defendants found liable  
13 will be jointly liable for all damages.

14

4982030988