

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1414

S.P. 447

In Senate, May 3, 1993

An Act to Modify the Legal Doctrine of Joint and Several Liability.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CIANCHETTE of Somerset.
Cosponsored by Senator: BERUBE of Androscoggin, Representatives: CAMPBELL of Holden,
JACQUES of Waterville, PLOURDE of Biddeford, PLOWMAN of Hampden, REED of Dexter.

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

Sec. 1. 14 MRSA §156-A is enacted to read:

§156-A. Joint and several liability

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

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

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

C. "Fault" has the same meaning as in section 156.

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

2. Joint and several liability. Except as otherwise provided in subsection 3 and Title 28-A, section 2512, in actions to which section 156 applies involving multiple defendants, each defendant is jointly and severally liable to the plaintiff for the full amount of the plaintiff's economic and noneconomic damages. Each defendant has the right through the use of special interrogatories to request of the fact finder the percentage of fault contributed by each defendant.

3. Several liability. Except in environmental actions, if any defendant in an action involving multiple defendants to which section 156 applies request of the fact finder the percentage of fault contributed by each defendant, a defendant is severally liable for noneconomic damages if:

2 A. The fact finder establishes the percentage contributed
4 by each defendant to the aggregate fault of the defendants;
 and

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

10 4. Damages recoverable. In an action to which subsection 3
12 applies, the court shall multiply the amount of noneconomic
14 damages recoverable by the plaintiff after the fact finder has
16 made any reduction required by section 156 by the percentage of
 fault of each defendant who meets the requirements for several
 liability established in subsection 3. The amount determined
 under this subsection is the maximum amount recoverable for
 noneconomic damages from each defendant.

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STATEMENT OF FACT

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24 This bill modifies the legal doctrine of joint and several
26 liability. It provides that in actions involving multiple
28 defendants, each defendant is jointly and severally liable for
30 the full amount of the plaintiff's economic and noneconomic
 damages. Defendants may request a determination of each
 defendant's percentage of fault. The bill also establishes a
 formula for determining the amount of damages recoverable from
 each defendant.