

MAINE STATE LEGISLATURE

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M
R 118

L.D. 1795

DATE: 3/20/2000

(Filing No. S-558)

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STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 630, L.D. 1795, Bill, "An Act to Validate Pierringer Releases and Reform Procedures in Multiparty Lawsuits"

Amend the bill by striking out the title and substituting the following:

'An Act to Validate Pierringer Releases in Multiparty Lawsuits'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 14 MRSA §156, as amended by PL 1971, c. 8, is further amended to read:

§156. Comparative negligence

Where ~~Where~~ When any person suffers death or damage as a result partly of ~~his~~ that person's own fault and partly of the fault of any other person or persons, a claim in respect of that death or damage ~~shall~~ may not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof ~~shall~~ must be reduced to such extent as the jury thinks just and equitable having regard to the claimant's share in the responsibility for the damage.

Where ~~Where~~ When damages are recoverable by any person by virtue of this section, subject to such reduction as is mentioned, the court shall instruct the jury to find and record the total damages ~~which~~ that would have been recoverable if the claimant

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2 had not been at fault, and further instruct the jury to reduce
the total damages by dollars and cents, and not by percentage, to
4 the extent deemed considered just and equitable, having regard to
the claimant's share in the responsibility for the damages, and
6 instruct the jury to return both amounts with the knowledge that
the lesser figure is the final verdict in the case.

8 Fault means negligence, breach of statutory duty or other
act or omission which that gives rise to a liability in tort or
10 would, apart from this section, give rise to the defense of
contributory negligence.

12 If such claimant is found by the jury to be equally at
14 fault, the claimant shall may not recover.

16 In a case involving multi-party multiparty defendants, each
defendant shall--be is jointly and severally liable to the
18 plaintiff for the full amount of the plaintiff's damages.
However, any defendant shall-have has the right through the use
20 of special interrogatories to request of the jury the percentage
of fault contributed by each defendant. If a defendant is
22 released by the plaintiff under an agreement that precludes the
plaintiff from collecting against remaining parties that portion
24 of any damages attributable to the released defendant's share of
responsibility, then the following rules apply.

26 1. General rule. The released defendant is entitled to be
28 dismissed with prejudice from the case. The dismissal bars all
related claims for contribution assertable by remaining parties
30 against the released defendant.

32 2. Post-dismissal procedures. The trial court must
34 preserve for the remaining parties a fair opportunity to
adjudicate the liability of the released and dismissed
36 defendant. Remaining parties may conduct discovery against a
released and dismissed defendant and invoke evidentiary rules at
38 trial as if the released and dismissed defendant were still a
party.

40 3. Binding effect. To apportion responsibility in the
42 pending action for claims that were included in the settlement
and presented at trial, a finding on the issue of the released
44 and dismissed defendant's liability binds all parties to the
suit, but such a finding has no binding effect in other actions
46 relating to other damage claims.

48 Sec. 2. 14 MRSA §163, as enacted by PL 1969, c. 19, is
amended to read:

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2 **§163. Release of joint tortfeasors**

4 Whenever a person seeks recovery for a personal injury or
6 or release of one or more of the persons causing the injury shall
8 is not be a bar to a subsequent action against the other person
or persons also causing the injury.

10 Evidence of settlement with a release of one or more persons
12 causing the injury shall is not be admissible at a subsequent
14 trial against the other person or persons also causing the
16 injury. After the jury has returned its verdict, the trial judge
18 shall inquire of the attorneys for the parties whether such a
20 settlement or release has occurred. If such settlement or release
22 has occurred, the trial judge shall reduce the verdict by an
24 amount equal to the settlement with or the consideration for the
26 release of the other persons. With regard to a settlement in
which the plaintiff has entered into an agreement that precludes
the plaintiff from collecting against remaining parties that
portion of any damages attributable to the settling defendant's
share of responsibility, the judge shall reduce the plaintiff's
judgment by either the amount determined at trial to be
attributable to the settling defendant's share of responsibility,
if any was found, or, if no such finding is made, by the value of
the consideration given to the plaintiff for the settlement.

28 **Sec. 3. Application.** This Act applies to all settlements
30 entered into after the effective date of this Act.'

32 **SUMMARY**

34 This amendment replaces the bill. It authorizes the courts
36 to approve Pierringer release and dismissal procedures in
multiparty litigation. In a Pierringer settlement, the plaintiff
38 gives up that share of recovery that is proportional to the
settling defendant's fraction of responsibility. The purpose of
40 a Pierringer release is to permit one defendant to settle with
the plaintiff and to withdraw finally from the suit even when
there are cross claims against the defendant. The amendment also
42 contains safeguards to protect nonsettling parties from being
prejudiced by the absence of the settling defendant.