

JAN 25 2006

A BILL FOR AN ACT

RELATING TO JOINT AND SEVERAL LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 663-10.9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§663-10.9 Abolition of joint and several liability;**
4 **exceptions.** Joint and several liability for joint tortfeasors
5 as defined in section 663-11 is abolished except in the
6 following circumstances:

7 (1) For the recovery of economic damages against joint
8 tortfeasors in actions involving injury or death to
9 persons;

10 (2) For the recovery of economic and noneconomic damages
11 against joint tortfeasors in actions involving:

12 (A) Intentional torts;

13 (B) Torts relating to environmental pollution;

14 (C) Toxic and asbestos-related torts;

15 (D) Torts relating to aircraft accidents;

16 (E) Strict and products liability torts; or

17 (F) Torts relating to motor vehicle accidents except

18 as provided in paragraph (4); and



1 (3) For the recovery of noneconomic damages in actions,
2 other than those enumerated in paragraph (2),
3 involving injury or death to persons against those
4 tortfeasors whose individual degree of negligence is
5 found to be twenty-five per cent or more under section
6 663-31. Where a tortfeasor's degree of negligence is
7 less than twenty-five per cent, then the amount
8 recoverable against that tortfeasor for noneconomic
9 damages shall be in direct proportion to the degree of
10 negligence assigned[; and].

11 (4) [~~For recovery of~~] Provided, however, that joint and
12 several liability for economic and noneconomic damages
13 in motor vehicle accidents involving tort actions
14 relating to the maintenance and design of highways
15 including actions involving guardrails, utility poles,
16 street and directional signs, and any other highway-
17 related device [~~upon a showing that the affected joint~~
18 ~~tortfeasor was given reasonable prior notice of a~~
19 ~~prior occurrence under similar circumstances to the~~
20 ~~occurrence upon which the tort claim is based. In~~
21 ~~actions in which the affected joint tortfeasor has not~~
22 ~~been shown to have had such reasonable prior notice,~~



1 ~~the recovery of noneconomic damages shall be as~~
2 ~~provided in paragraph (3)]~~ is abolished.

3 (5) Provided, however, that joint and several liability
4 for economic and noneconomic damages for claims
5 against design professionals, as defined in chapter
6 672, and certified public accountants, as defined in
7 chapter 466, is abolished in actions not involving
8 physical injury or death to persons."

9 SECTION 2. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

12

INTRODUCED BY:

[Handwritten signatures: Fred Manning, Bob Neque, Anthony. Sam]



SB. NO. 2844

Report Title:

Joint and Several Liability; Abolished for Highway Claims

Description:

Abolishes joint and several liability for motor vehicle accident liability relating to the maintenance and design of highways.

SB SMO 06-016

