A BILL FOR AN ACT

RELATING TO TORT ACTIONS.

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

1 SECTION 1. The legislature finds that the collateral 2 source rule has been established by case law and is not based 3 upon statutory provisions. The legislature recognizes that 4 collateral source payments occur whenever a plaintiff in a tort 5 action receives compensation or benefits from a third party that is not involved in the litigation to compensate for damages the 6 7 plaintiff sustained. The collateral source rule bars defendants 8 from introducing evidence to show that a plaintiff has received 9 collateral source payments. The legislature further believes 10 that, in practice, collateral sources often do not spend the 11 time and resources to track tort claims, which can take years to 12 resolve. Consequently, a plaintiff's recovery is often 13 duplicated to the extent the plaintiff received collateral 14 source payments.

15 The legislature finds that, by repealing the collateral 16 source rule, the injured person would be made whole for any 17 economic loss, but double recovery would be eliminated, which 18 would also lower auto insurance costs.



1	SECTION 2. Chapter 663, Hawaii Revised Statutes, is		
2	amended by adding a new section to be appropriately designated		
3	and to read as follows:		
4	" <u>\$66</u>	3- <u>Collateral source rule; repealed; collateral</u>	
5	source de	fined. (a) As used in this section, the term	
6	"collater	al source" means any payments made to the plaintiff, or	
7	made on t	he plaintiff's behalf, by or pursuant to:	
8	(1)	The United States Social Security Act, except Title	
9		XVIII and Title XIX; any federal, state, or local	
10		income disability act; or any other public programs	
11		providing medical expenses, disability payments, or	
12		other similar benefits, except those prohibited by	
13		federal law and those expressly excluded by law as	
14		collateral sources;	
15	(2)	Any health, sickness, or income disability insurance;	
16		any automobile accident insurance that provides health	
17		benefits or income disability coverage; and any other	
18		similar insurance benefits, except life insurance	
19		benefits available to the plaintiff, whether purchased	
20		by the plaintiff or provided by others;	
21	(3)	Any contract or agreement of any group, organization,	
22		partnership, or corporation to provide, pay for, or	
	HB LRB 07-0718.doc		



з

1	r	eimburse the costs of hospital, medical, dental, or		
2	<u>o</u>	ther health care services; or		
3	<u>(4)</u> <u>A</u>	ny contractual or voluntary wage continuation plan		
4	p	rovided for by employers or by any other system		
5	i	ntended to provide wages during a period of		
6	d	isability;		
7	provided th	at benefits received under medicare, or any other		
8	federal program providing for a federal government lien on or			
9	right of re	imbursement from the plaintiff's recovery, the		
10	worker's co	mpensation law, the medicaid program of Title XIX of		
11	the Social Security Act or from any medical services program			
12	administered by the department of health shall not be considered			
13	a collatera	l source.		
14	(b) E	vidence of collateral source payments introduced at		
15	trial shall	be admissible. The court shall reduce the amount of		
16	an award by	an award by the total of all amounts that have been paid to the		
17	plaintiff, or that are otherwise available to the plaintiff,			
18	from a coll	ateral source. The court shall offset the reduction		
19	by any amou	nt paid by the plaintiff to secure the benefit from a		
20	collateral	source."		

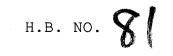


Page 3

SECTION 3. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
begun, before its effective date.
SECTION 4. New statutory material is underscored.
SECTION 5. This Act shall take effect upon its approval.
INTRODUCED BY:

JAN 1 7 2007





Report Title: Torts; No-fault; Collateral Source Rule

Description:

Repeals the collateral source rule, which bars defendants from introducing evidence to show that a plaintiff has received collateral source payments, that is, not from the defendant, for the sustained injury.

