

**ACT 227**

**H. B. NO. 857**

A Bill for an Act Relating to Tort Actions Based on Negligence and Amending Chapter 663 - Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 663 of the Hawaii Revised Statutes is amended by adding a new Part to be appropriately designated and to read as follows:

**PART . COMPARATIVE NEGLIGENCE**

**“Section 663. Contributory negligence no bar; comparative negligence; findings of fact and special verdicts.** “(a) Contributory negligence shall not bar recovery in any action by any person or his legal representative to recover damages for negligence resulting in death or in injury to person or property, if such negligence was not as great as the negligence of the person against whom recovery is sought, but any damages allowed shall be diminished in proportion to the amount of negligence attributable to the person for whose injury, damage or death recovery is made.

“(b) In any action to which subsection (a) of this section applies, the court, in a nonjury trial, shall make findings of fact or, in a jury trial, the jury shall return a special verdict which shall state:

“(1) The amount of the damages which would have been recoverable if there had been no contributory negligence; and

“(2) The degree of negligence of each party, expressed as a percentage.

“(c) Upon the making of the finding of fact or the return of a special verdict, as is contemplated by subsection (b) above, the court shall reduce the amount of the verdict in proportion to the amount of negligence attributable to the person for whose injury, damage or death recovery is made, provided, however, that if the said proportion is equal to or greater than the negligence of the person against whom recovery is sought, then, in such event, the court will enter a judgment for the defendant.”

SECTION 2. The provisions of this Act shall not be retroactive and shall affect only those claims accruing after its effective date.

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

(Approved July 14, 1969.)