

SECOND REGULAR SESSION

SENATE BILL NO. 890

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time February 19, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6035S.011

AN ACT

To repeal section 508.010, RSMo, and to enact in lieu thereof one new section relating to venue for injury outside the state of Missouri in connection with railroad operations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 508.010, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 508.010, to read as follows:

508.010. 1. As used in this section, "principal place of residence" shall
2 mean the county which is the main place where an individual resides in the state
3 of Missouri. There shall be a rebuttable presumption that the county of voter
4 registration at the time of injury is the principal place of residence. There shall
5 be only one principal place of residence.

6 2. In all actions in which there is no count alleging a tort, venue shall be
7 determined as follows:

8 (1) When the defendant is a resident of the state, either in the county
9 within which the defendant resides, or in the county within which the plaintiff
10 resides, and the defendant may be found;

11 (2) When there are several defendants, and they reside in different
12 counties, the suit may be brought in any such county;

13 (3) When there are several defendants, some residents and others
14 nonresidents of the state, suit may be brought in any county in this state in
15 which any defendant resides;

16 (4) When all the defendants are nonresidents of the state, suit may be
17 brought in any county in this state.

18 3. The term "tort" shall include claims based upon improper health care,
19 under the provisions of chapter 538.

20 4. Notwithstanding any other provision of law, in all actions in which
21 there is any count alleging a tort and in which the plaintiff was first injured in
22 the state of Missouri, venue shall be in the county where the plaintiff was first
23 injured by the wrongful acts or negligent conduct alleged in the action.

24 5. Notwithstanding any other provision of law, in all actions in which
25 there is any count alleging a tort and in which the plaintiff was first injured
26 outside the state of Missouri, venue shall be determined as follows:

27 (1) If the defendant is a corporation, then venue shall be in any county
28 where a defendant corporation's registered agent is located or, if the plaintiff's
29 principal place of residence was in the state of Missouri on the date the plaintiff
30 was first injured, then venue may be in the county of the plaintiff's principal
31 place of residence on the date the plaintiff was first injured;

32 (2) If the defendant is an individual, then venue shall be in any county
33 of the individual defendant's principal place of residence in the state of Missouri
34 or, if the plaintiff's principal place of residence was in the state of Missouri on the
35 date the plaintiff was first injured, then venue may be in the county containing
36 the plaintiff's principal place of residence on the date the plaintiff was first
37 injured;

38 **(3) Notwithstanding subdivisions (1) and (2) of this subsection,**
39 **if the plaintiff was first injured in a foreign country in connection with**
40 **any railroad operations therein and any defendant is a:**

41 **(a) Corporation that, either directly or through its subsidiaries,**
42 **wholly owns or operates the foreign railroad; or**

43 **(b) Wholly-owned subsidiary of a corporation that, either directly**
44 **or through its subsidiaries, wholly owns or operates the foreign**
45 **railroad;**

46 **then venue shall exclusively be in the county where any such defendant**
47 **corporation's registered agent is located, regardless of venue as to any**
48 **other defendant or, if the plaintiff's principal place of residence was in**
49 **the state of Missouri on the date the plaintiff was first injured, then**
50 **venue may be in the county of the plaintiff's principal place of**
51 **residence on the date the plaintiff was first injured.**

52 6. Any action, in which any county shall be a plaintiff, may be commenced
53 and prosecuted to final judgment in the county in which the defendant or
54 defendants reside, or in the county suing and where the defendants, or one of
55 them, may be found.

56 7. In all actions, process shall be issued by the court in which the action
57 is filed and process may be served in any county within the state.

58 8. In any action for defamation or for invasion of privacy, the plaintiff
59 shall be considered first injured in the county in which the defamation or
60 invasion was first published.

61 9. In all actions, venue shall be determined as of the date the plaintiff was
62 first injured.

63 10. All motions to dismiss or to transfer based upon a claim of improper
64 venue shall be deemed granted if not denied within ninety days of filing of the
65 motion unless such time period is waived in writing by all parties.

66 11. In a wrongful death action, the plaintiff shall be considered first
67 injured where the decedent was first injured by the wrongful acts or negligent
68 conduct alleged in the action. In any spouse's claim for loss of consortium, the
69 plaintiff claiming consortium shall be considered first injured where the other
70 spouse was first injured by the wrongful acts or negligent conduct alleged in the
71 action.

72 12. The provisions of this section shall apply irrespective of whether the
73 defendant is a for-profit or a not-for-profit entity.

74 13. In any civil action, if all parties agree in writing to a change of venue,
75 the court shall transfer venue to the county within the state unanimously chosen
76 by the parties. If any parties are added to the cause of action after the date of
77 said transfer who do not consent to said transfer then the cause of action shall
78 be transferred to such county in which venue is appropriate under this section,
79 based upon the amended pleadings.

80 14. A plaintiff is considered first injured where the trauma or exposure
81 occurred rather than where symptoms are first manifested.

✓