

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2390 Session of
2024

INTRODUCED BY KAUFFMAN, KLUNK, SMITH, PICKETT AND DIAMOND,
JUNE 7, 2024

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 7, 2024

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in general provisions
3 relating to civil actions and proceedings, further providing
4 for comparative negligence.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 7102 heading, (a), (a.1), (a.2) and (c.2)
8 of Title 42 of the Pennsylvania Consolidated Statutes are
9 amended to read:

10 § 7102. [Comparative negligence] Fair share of liability.

11 (a) General rule.--In all actions brought to recover damages
12 for negligence resulting in death or injury to person or
13 property, the fact that the plaintiff may have been [guilty of
14 contributory negligence] contributorily negligent shall not bar
15 a recovery by the plaintiff or [his] the plaintiff's legal
16 representative where such negligence was not greater than the
17 causal negligence of the defendant or defendants against whom
18 recovery is sought, but any damages sustained by the plaintiff
19 shall be diminished in proportion to the amount of negligence

1 attributed to the plaintiff.

2 (a.1) Recovery against joint defendant; contribution.--

3 (1) [Where recovery is allowed against more than one
4 person] In an action to recover damages for death or injury
5 to a person or property, including [actions] an action for
6 strict liability[, and where liability is attributed to more
7 than one defendant,] and an action in which the plaintiff has
8 not been found contributorily negligent, each defendant shall
9 be liable for that proportion of the total dollar amount
10 awarded as damages in the ratio of the amount of that
11 defendant's liability to the amount of liability attributed
12 to all defendants and other persons to whom liability is
13 apportioned under subsection (a.2). Liability in a tort
14 action, including an action for strict liability, shall be
15 apportioned on a percentage basis.

16 (2) Except as set forth in paragraph (3), a defendant's
17 liability shall be several and not joint, and the court shall
18 enter a separate and several judgment in favor of the
19 plaintiff and against each defendant against whom strict
20 liability or negligence is assessed for the apportioned
21 amount of that defendant's liability.

22 (2.1) In an exposure-related tort case involving two or
23 more persons that combine to cause an indivisible injury,
24 including an asbestos case, the trier of fact shall apportion
25 liability based on the relative contribution of each person
26 to the plaintiff's dose of exposure, as assessed by a jury
27 based upon admissible fact and expert testimony.

28 (3) A defendant's liability in any of the following
29 actions shall be joint and several, and the court shall enter
30 a joint and several judgment in favor of the plaintiff and

1 against the defendant for the total dollar amount awarded as
2 damages:

3 (i) Intentional misrepresentation.

4 (ii) An intentional tort.

5 (iii) Where the defendant has been held liable for
6 not less than 60% of the total liability apportioned to
7 all parties.

8 (iv) A release or threatened release of a hazardous
9 substance under section 702 of the act of October 18,
10 1988 (P.L.756, No.108), known as the Hazardous Sites
11 Cleanup Act.

12 (v) A civil action in which a defendant has violated
13 section 497 of the act of April 12, 1951 (P.L.90, No.21),
14 known as the Liquor Code.

15 (4) Where a defendant has been held jointly and
16 severally liable under this subsection and discharges by
17 payment more than that defendant's proportionate share of the
18 total liability, that defendant is entitled to recover
19 contribution from [defendants who] liable persons that have
20 paid less than their proportionate share. Further, in any
21 case, any defendant may recover from any other person all or
22 a portion of the damages assessed that defendant pursuant to
23 the terms of a contractual agreement.

24 (a.2) Apportionment of responsibility among certain
25 nonparties and effect.--For purposes of apportioning liability
26 only, the [question of] liability of any defendant or other
27 person [who has entered into a release with the plaintiff with
28 respect to the action and who] that is not a party shall be
29 transmitted to the trier of fact upon appropriate requests and
30 proofs by any party. A person whose liability may be determined

1 pursuant to this section does not include an employer to the
2 extent that the employer is granted immunity from liability or
3 suit pursuant to the act of June 2, 1915 (P.L.736, No.338),
4 known as the Workers' Compensation Act. An attribution of
5 responsibility to any person or entity as provided in this
6 subsection shall not be admissible or relied upon in any other
7 action or proceeding for any purpose. Nothing in this section
8 shall affect the admissibility or nonadmissibility of evidence
9 regarding releases, settlements, offers to compromise or
10 compromises as set forth in the Pennsylvania Rules of Evidence.
11 Nothing in this section shall affect the rules of joinder of
12 parties as set forth in the Pennsylvania Rules of Civil
13 Procedure.

14 * * *

15 (c.2) Savings provisions.--Nothing in this section shall be
16 construed in any way to create, abolish or modify a cause of
17 action or to limit a party's right to join another potentially
18 responsible party[.], except that this section abrogates the
19 common law governing apportionment of liability among joint
20 tortfeasors in strict liability actions.

21 * * *

22 Section 2. This act shall apply to all causes of action that
23 accrue after the effective date of this section.

24 Section 3. This act shall take effect in 60 days.