



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB0376

Introduced 2/19/2021, by Sen. Jason A. Barickman

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1107.1  
735 ILCS 5/2-1117

from Ch. 110, par. 2-1107.1  
from Ch. 110, par. 2-1117

Amends and reenacts provisions of the Civil Practice Article of the Code of Civil Procedure concerning actions on account of bodily injury or death or physical damage to property based on negligence or product liability based on strict tort liability. Provides that the court shall not instruct the jury of the consequence of any findings of fault of any plaintiff or defendant under specified provisions of the Code. Deletes language providing that the court shall instruct the jury in writing that the defendant shall be found not liable if the jury finds that the contributory fault of the plaintiff is more than 50% of the proximate cause of the injury or damage for which recovery is sought. In the Section concerning joint liability, deletes language providing that: any defendant whose fault is less than 25% of the total fault attributable to the plaintiff, the defendants sued by the plaintiff, and any third party defendant except the plaintiff's employer, is severally liable for non-medical damages; and any defendant whose fault is 25% or greater of the total fault attributable to the plaintiff, the defendants sued by the plaintiff, and any third party defendants except the plaintiff's employer, is jointly and severally liable for non-medical damages. Adds language providing that: any defendant whose fault is less than 25% of the proximate cause of the injury or damage for which recovery is sought by the plaintiff is severally liable for non-medical damages; and any defendant whose fault is 25% or greater of the proximate cause of the injury or damage for which recovery is sought by the plaintiff is jointly and severally liable for non-medical damages. Contains applicability provisions.

LRB102 10632 LNS 15961 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 reenacting and changing Section 2-1107.1 and by changing  
6 Section 2-1117 as follows:

7 (735 ILCS 5/2-1107.1) (from Ch. 110, par. 2-1107.1)

8 (Text of Section WITHOUT the changes made by P.A. 89-7,  
9 which has been held unconstitutional)

10 Sec. 2-1107.1. Jury instruction in tort actions. In all  
11 actions on account of bodily injury or death or physical  
12 damage to property based on negligence, or product liability  
13 based on strict tort liability, the court shall not instruct  
14 the jury of the consequence of any findings of fault of any  
15 plaintiff or defendant pursuant to Section 2-1116 or 2-1117 in  
16 writing that the defendant shall be found not liable if the  
17 jury finds that the contributory fault of the plaintiff is  
18 more than 50% of the proximate cause of the injury or damage  
19 for which recovery is sought.

20 The changes to this Section made by this amendatory Act of  
21 the 102nd General Assembly apply to causes of action accruing  
22 on or after the effective date of this amendatory Act of the  
23 102nd General Assembly.

1 (Source: P.A. 84-1431.)

2 (735 ILCS 5/2-1117) (from Ch. 110, par. 2-1117)

3 Sec. 2-1117. Joint liability. Except as provided in  
4 Section 2-1118, in actions on account of bodily injury or  
5 death or physical damage to property, based on negligence, or  
6 product liability based on strict tort liability, all  
7 defendants found liable are jointly and severally liable for  
8 plaintiff's past and future medical and medically related  
9 expenses. Any defendant whose fault, as determined by the  
10 trier of fact, is less than 25% of the proximate cause of the  
11 injury or damage for which recovery is sought by the plaintiff  
12 ~~total fault attributable to the plaintiff, the defendants sued~~  
13 ~~by the plaintiff, and any third party defendant except the~~  
14 ~~plaintiff's employer,~~ shall be severally liable for all other  
15 damages. Any defendant whose fault, as determined by the trier  
16 of fact, is 25% or greater of the proximate cause of the injury  
17 or damage for which recovery is sought by the plaintiff ~~total~~  
18 ~~fault attributable to the plaintiff, the defendants sued by~~  
19 ~~the plaintiff, and any third party defendants except the~~  
20 ~~plaintiff's employer,~~ shall be jointly and severally liable  
21 for all other damages.

22 The changes to this Section made by this amendatory Act of  
23 the 102nd General Assembly apply to causes of action accruing  
24 on or after the effective date of this amendatory Act of the  
25 102nd General Assembly.

1 (Source: P.A. 93-10, eff. 6-4-03; 93-12, eff. 6-4-03.)