



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3852

by Rep. Ron Sandack - Dwight Kay

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1107.1

from Ch. 110, par. 2-1107.1

735 ILCS 5/2-1117

from Ch. 110, par. 2-1117

Amends and re-enacts 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. 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.

LRB099 11170 HEP 31670 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 changing and re-enacting Section 2-1107.1 and changing Section  
6 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 damage  
12 to property based on negligence, or product liability based on  
13 strict tort liability, the court shall not instruct the jury of  
14 the consequence of any findings of fault of any plaintiff or  
15 defendant pursuant to Section 2-1116 or 2-1117 in writing that  
16 the defendant shall be found not liable if the jury finds that  
17 the contributory fault of the plaintiff is more than 50% of the  
18 proximate cause of the injury or damage for which recovery is  
19 sought.

20 The changes to this Section made by this amendatory Act of  
21 the 99th General Assembly apply to causes of action accruing on  
22 or after its effective date.

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

1 (735 ILCS 5/2-1117) (from Ch. 110, par. 2-1117)

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

21 The changes to this Section made by this amendatory Act of  
22 the 99th General Assembly apply to causes of action accruing on  
23 or after its effective date.

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