



SENATE BILL No. 752

November 7, 1995, Introduced by Senator PETERS and referred to the Committee on Judiciary.

A bill to amend sections 2956 and 6304 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," section 2956 as added and section 6304 as amended by Act No. 161 of the Public Acts of 1995, being sections 600.2956 and 600.6304 of the Michigan Compiled Laws; and to add section 6310.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2956 and 6304 of Act No. 236 of the
2 Public Acts of 1961, section 2956 as added and section 6304 as
3 amended by Act No. 161 of the Public Acts of 1995, being sections
4 600.2956 and 600.6304 of the Michigan Compiled Laws, are amended
5 and section 6310 is added to read as follows:

6 Sec. 2956. Except as provided in ~~section~~ SECTIONS 6304
7 AND 6310, in an action based on tort or another legal theory
8 seeking damages for personal injury, property damage, or wrongful

1 death, ~~the liability of each defendant~~ EACH DEFENDANT'S
2 LIABILITY FOR ECONOMIC DAMAGES IS JOINT AND SEVERAL AND for
3 NONECONOMIC damages is several only and is not joint. However,
4 this section does not abolish an employer's vicarious liability
5 for an act or omission of the employer's employee.

6 Sec. 6304. (1) In an action based on tort or another legal
7 theory seeking damages for personal injury, property damage, or
8 wrongful death involving fault of more than 1 person, including
9 third-party defendants and nonparties, the court, unless other-
10 wise agreed by all parties to the action, shall instruct the jury
11 to answer special interrogatories or, if there is no jury, shall
12 make findings indicating both of the following:

13 (a) The total amount of each plaintiff's damages.

14 (b) The percentage of the total fault of all of the parties
15 and nonparties regarding each claim as provided in sections 2956
16 to 2960.

17 (2) In determining the percentages of fault under subsection
18 (1)(b), the trier of fact shall consider both the nature of the
19 conduct of each party and nonparty at fault, including inten-
20 tional conduct, and the extent of the causal relation between the
21 conduct and the damages claimed.

22 (3) The court shall determine the award of damages to each
23 plaintiff in accordance with the findings under subsection (1),
24 subject to any reduction under subsection (4) or section 6303,
25 and SHALL enter judgment against each party, including a
26 third-party defendant, except that judgment shall not be entered
27 against a person who has been released from liability as provided

1 in section 2925d. Except as otherwise provided in subsection (5)
2 AND SECTION 6310, a person shall not be required to pay
3 NONECONOMIC damages in an amount greater than his or her percen-
4 tage of fault.

5 (4) In an action alleging medical malpractice, the court
6 shall reduce an award of damages in excess of 1 of the limita-
7 tions set forth in section 1483 to the amount of the appropriate
8 limitation set forth in section 1483. The jury shall not be
9 advised by the court or by counsel for either party of the limi-
10 tations set forth in section 1483 or any other provision of sec-
11 tion 1483.

12 (5) In an action alleging medical malpractice, 1 of the fol-
13 lowing applies:

14 (a) If the plaintiff is determined not to have a percentage
15 of fault under subsections (1) and (2), the liability of
16 defendants that are persons or entities described in section
17 5838a(1) is joint and several.

18 (b) If the plaintiff is determined to have a percentage of
19 fault under subsections (1) and (2), upon motion made not later
20 than 6 months after a final judgment is entered, the court, in
21 regard only to parties who are persons or entities described in
22 section 5838a(1), shall determine whether all or part of such a
23 party's share of the obligation is uncollectible from that party,
24 and shall reallocate any uncollectible amount among the other of
25 those parties according to their respective percentages of fault
26 as determined under subsection (1). A party is not required to
27 pay a percentage of any uncollectible amount that exceeds that

1 party's percentage of fault as determined under subsection (1).
2 The party whose liability is reallocated continues to be subject
3 to contribution and to any continuing liability to the plaintiff
4 on the judgment.

5 SEC. 6310. A DEFENDANT THAT IS FOUND LIABLE FOR AN ACT OR
6 OMISSION THAT CAUSES PERSONAL INJURY, PROPERTY DAMAGE, OR WRONG-
7 FUL DEATH IS JOINTLY AND SEVERALLY LIABLE IF THE DEFENDANT'S ACT
8 OR OMISSION IS ANY OF THE FOLLOWING:

9 (A) INTENTIONAL.

10 (B) A CRIME, AN ELEMENT OF WHICH IS GROSS NEGLIGENCE, FOR
11 WHICH THE DEFENDANT IS CONVICTED.

12 (C) A CRIME INVOLVING THE USE OF ALCOHOL OR A CONTROLLED
13 SUBSTANCE FOR WHICH THE DEFENDANT IS CONVICTED AND THAT IS A VIO-
14 LATION OF 1 OR MORE OF THE FOLLOWING:

15 (i) SECTION 14 OF THE EXPLOSIVES ACT OF 1970, ACT NO. 202 OF
16 THE PUBLIC ACTS OF 1970, BEING SECTION 29.54 OF THE MICHIGAN
17 COMPILED LAWS.

18 (ii) SECTION 111 OF THE MICHIGAN CODE OF MILITARY JUSTICE OF
19 1980, ACT NO. 523 OF THE PUBLIC ACTS OF 1980, BEING SECTION
20 32.1111 OF THE MICHIGAN COMPILED LAWS.

21 (iii) SECTION 625 OF THE MICHIGAN VEHICLE CODE, ACT NO. 300
22 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.625 OF THE MICHIGAN
23 COMPILED LAWS.

24 (iv) SECTION 185 OF THE AERONAUTICS CODE OF THE STATE OF
25 MICHIGAN, ACT NO. 327 OF THE PUBLIC ACTS OF 1945, BEING SECTION
26 259.185 OF THE MICHIGAN COMPILED LAWS.

1 (v) SECTION 80176 OF PART 801 (MARINE SAFETY), 81134 OF
2 PART 811 (OFF-ROAD RECREATION VEHICLES), OR 82127 OF PART 821
3 (SNOWMOBILES) OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
4 TION ACT, ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS
5 324.80176, 324.81134, AND 324.82127 OF THE MICHIGAN COMPILED
6 LAWS.

7 (vi) SECTION 353 OF THE RAILROAD CODE OF 1993, ACT NO. 354
8 OF THE PUBLIC ACTS OF 1993, BEING SECTION 462.353 OF THE MICHIGAN
9 COMPILED LAWS.

10 (vii) SECTION 237 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF
11 THE PUBLIC ACTS OF 1931, BEING SECTION 750.237 OF THE MICHIGAN
12 COMPILED LAWS.