

## SENATE SUBSTITUTE

FOR

SENATE BILL NO. 7

## AN ACT

To repeal sections 507.040, 507.050, 508.010, 508.012, and 537.762, RSMo, and to enact in lieu thereof eight new sections relating to civil procedure.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 507.040, 507.050, 508.010, 508.012, and  
2 537.762, RSMo, are repealed and eight new sections enacted in  
3 lieu thereof, to be known as sections 375.1800, 375.1803,  
4 375.1806, 507.040, 507.050, 508.010, 508.012, and 537.762, to  
5 read as follows:

6           375.1800. 1. A domestic insurance company shall be deemed  
7 for all purposes, including venue, to reside in, and be a  
8 resident of, the county where its registered office is  
9 maintained.

10           2. A foreign insurance company shall be deemed for all  
11 purposes, including venue, to reside in, and be a resident of,  
12 the county where its registered office is maintained. A foreign  
13 insurance company that does not maintain a registered office in  
14 any county in Missouri shall be deemed to reside in, and be a  
15 resident of, Cole County.

16           375.1803. 1. Notwithstanding any provision of law to the  
17 contrary, in all actions in which there is any count against an  
18 insurer, whether in tort or contract, regarding the rights,  
19 benefits, or duties under an insurance contract or any action

1 arising from an insurance contract, including but not limited to  
2 claims of breach of contract, bad faith, or breach of fiduciary  
3 duty, venue shall be in the county where the insurer resides, or  
4 if the insured was a resident of Missouri at the time the  
5 insurance contract was issued, the county of the insured's  
6 principal place of residence, as defined in section 508.010, at  
7 the time the insurance contract was issued. Venue shall be  
8 determined by this section even if the insured's rights or claims  
9 under the policy have been assigned or otherwise transferred to  
10 another party. However, intervention by an insurer in an action  
11 pursuant to section 537.065 shall not affect the venue of the  
12 action.

13 2. (1) The provisions of this section shall not apply to  
14 any action against an insurer relating to uninsured motorist  
15 coverage or underinsured motorist coverage, including any action  
16 to enforce such coverage.

17 (2) Venue for a vexatious refusal to pay claim under  
18 section 375.296 or section 375.420 to collect an amount due under  
19 uninsured motorist or underinsured motorist coverage shall not be  
20 determined in accordance with the provisions of this section, but  
21 shall be determined by the provisions of section 375.1806.  
22 However, venue for any other vexatious refusal to pay claim to  
23 collect an amount due under any other type of policy or coverage  
24 shall be determined in accordance with the provisions of this  
25 section.

26 375.1806. Notwithstanding any provision of law to the  
27 contrary, in all actions against an insurer relating to uninsured  
28 motorist coverage or underinsured motorist coverage, including

1 any action to enforce such coverage, venue as to that individual  
2 plaintiff shall be determined as follows:

3 (1) If the accident involving the uninsured or underinsured  
4 motor vehicle occurred in Missouri, then venue shall be in the  
5 county where the accident occurred;

6 (2) If the accident involving the uninsured or underinsured  
7 motor vehicle occurred outside the state of Missouri, then venue  
8 shall either be in:

9 (a) The county where the insurer resides; or

10 (b) If the insured's principal place of residence was in  
11 the state of Missouri on the date the insured was first injured  
12 by the accident involving an uninsured or underinsured motor  
13 vehicle, the county of the insured's principal place of residence  
14 on the date the insured was first injured by such accident.

15 507.040. 1. All persons may join in one action as  
16 plaintiffs if they assert any right to relief jointly, severally,  
17 or in the alternative in respect of or arising out of the same  
18 transaction, occurrence, or series of transactions or occurrences  
19 and if any question of law or fact common to all of them will  
20 arise in the action. All persons may be joined in one action as  
21 defendants if there is asserted against them jointly, severally,  
22 or in the alternative, any right to relief in respect of or  
23 arising out of the same transaction, occurrence, or series of  
24 transactions or occurrences and if any question of law or fact  
25 common to all of them will arise in the action. Notwithstanding  
26 any other provision of law to the contrary, claims arising out of  
27 separate purchases of the same product or service, or separate  
28 incidents involving the same product or services shall not

1 satisfy this section. A plaintiff or defendant need not be  
2 interested in obtaining or defending against all the relief  
3 demanded. Judgment may be given for one or more of the  
4 plaintiffs according to their respective rights to relief, and  
5 against one or more defendants according to their respective  
6 liabilities.

7 2. In addition to the requirements of subsection 1 of this  
8 section, in any civil action in which there is a count alleging a  
9 tort, two or more plaintiffs may be joined in a single action  
10 only if each plaintiff could have separately filed an action in  
11 that venue, independently of the claims of any other plaintiff.  
12 Two or more defendants may be joined in a single action only if  
13 each plaintiff can establish proper venue against each defendant,  
14 independently of the claims against any other defendant.

15 3. All parties for which proper personal jurisdiction and  
16 venue cannot be independently established shall be deemed  
17 misjoined. Misjoined parties may be joined only where at least  
18 one claim is properly pending in the court, and all parties to  
19 the action waive objection to the misjoinder. All other  
20 misjoined parties shall be subject to the provisions of section  
21 507.050.

22 4. The court may make such orders as will prevent a party  
23 from being embarrassed, delayed, or put to expense by the  
24 inclusion of a party against whom he asserts no claim and who  
25 asserts no claim against him, and may order separate trials or  
26 make other orders to prevent delay or prejudice.

27 507.050. 1. Misjoinder of parties is not ground for  
28 dismissal of an action. Parties may be dropped [or], added, or

1 severed by order of the court on motion of any party or of its  
2 own initiative at any stage of the action and on such terms as  
3 are just. Any claim against a party may be severed and proceeded  
4 with separately. If a plaintiff or defendant is deemed misjoined  
5 pursuant to subsection 3 of section 507.040, all claims brought  
6 by that plaintiff or against that defendant shall be severed from  
7 the action and those claims shall be transferred to a county in  
8 which venue exists upon the motion of any party. For any claim  
9 that has already been filed but for which the court has not  
10 issued a final judgment as of the effective date of this act, all  
11 pretrial rulings made by the transferring court may only be  
12 reconsidered for good cause. If there is no county in Missouri  
13 in which venue exists, those claims shall be dismissed without  
14 prejudice.

15 2. A motion to drop or add parties may be made at the same  
16 time as other motions provided for in section 509.290, and if so  
17 made, the provisions of section 509.340 with reference to the  
18 consolidation of motions and waiver of objections shall also  
19 apply. If said motion is made at any other time, the hearing and  
20 determination thereof shall not delay the trial. Objections on  
21 account of misjoinder or nonjoinder of parties may also be raised  
22 by answer or reply.

23 508.010. 1. As used in this section, "principal place of  
24 residence" shall mean the county which is the main place where an  
25 individual resides in the state of Missouri. [There shall be a  
26 rebuttable presumption that the county of voter registration at  
27 the time of injury is the principal place of residence.] There  
28 shall be only one principal place of residence.

1       (1) For an individual person, there shall be a rebuttable  
2 presumption that the county of voter registration at the time of  
3 injury is the principal place of residence.

4       (2) Notwithstanding subdivision (1) of this subsection, for  
5 an individual whose conduct at issue was alleged in at least one  
6 count to be in the course and scope of his or her employment with  
7 a corporation, the individual's principal place of residence for  
8 venue purposes shall be deemed to be the applicable corporation's  
9 principal place of residence.

10       (3) For a corporation, the county where the corporation has  
11 its registered agent is the principal place of residence.

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

14       (1) When the defendant is a resident of the state, either  
15 in the county within which the defendant resides, or in the  
16 county within which the plaintiff resides, and the defendant may  
17 be found;

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

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

23       (4) When all the defendants are nonresidents of the state,  
24 suit may be brought in any county in this state, provided there  
25 is personal jurisdiction over each defendant, independent of each  
26 other defendant.

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

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

6           5. Notwithstanding any other provision of law, in all  
7 actions in which there is any count alleging a tort and in which  
8 the plaintiff was first injured outside the state of Missouri,  
9 venue as to that individual plaintiff shall be determined as  
10 follows:

11           (1) If the defendant is a corporation, then venue shall be  
12 in [any] the county where [a] the defendant [corporation's  
13 registered agent is located] has its principal place of residence  
14 or, if the plaintiff's principal place of residence was in the  
15 state of Missouri on the date the plaintiff was first injured,  
16 then venue may be in the county of the plaintiff's principal  
17 place of residence on the date the plaintiff was first injured;

18           (2) If the defendant is an individual, then venue shall be  
19 in [any] the county [of] where the [individual defendant's]  
20 defendant has his or her principal place of residence in the  
21 state of Missouri, which for venue purposes shall be deemed to be  
22 that of his or her employer corporation if any count alleges  
23 conduct in the course and scope of his or her employment with  
24 that corporation, or, if the plaintiff's principal place of  
25 residence was in the state of Missouri on the date the plaintiff  
26 was first injured, then venue as to that individual plaintiff may  
27 be in the county containing the plaintiff's principal place of  
28 residence on the date the plaintiff was first injured;

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

5           (a) Corporation that, either directly or through its  
6 subsidiaries, wholly owns or operates the foreign railroad; or

7           (b) Wholly owned subsidiary of a corporation that, either  
8 directly or through its subsidiaries, wholly owns or operates the  
9 foreign railroad;

10  
11 then venue shall exclusively be in the county where any such  
12 defendant corporation's registered agent is located, regardless  
13 of venue as to any other defendant or, if the plaintiff's  
14 principal place of residence was in the state of Missouri on the  
15 date the plaintiff was first injured, then venue may be in the  
16 county of the plaintiff's principal place of residence on the  
17 date the plaintiff was first injured.

18           6. Any action, in which any county shall be a plaintiff,  
19 may be commenced and prosecuted to final judgment in the county  
20 in which the defendant or defendants reside, or in the county  
21 suing and where the defendants, or one of them, may be found.

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

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

28           9. In all actions, venue shall be determined as of the date



1 the plaintiff was first injured.

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

6 11. In a wrongful death action, the plaintiff shall be  
7 considered first injured where the decedent was first injured by  
8 the wrongful acts or negligent conduct alleged in the action. In  
9 any spouse's claim for loss of consortium, the plaintiff claiming  
10 consortium shall be considered first injured where the other  
11 spouse was first injured by the wrongful acts or negligent  
12 conduct alleged in the action.

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

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

23 14. A plaintiff is considered first injured where the  
24 trauma or exposure occurred rather than where symptoms are first  
25 manifested.

26 15. Notwithstanding any other provision of law to the  
27 contrary, in any civil action in which there is any count  
28 alleging a tort, each plaintiff shall establish that the court

1 where the action is filed is a proper venue against each  
2 defendant, independent of the claims brought by any other  
3 plaintiff or against any other defendant. Venue for each  
4 plaintiff and each defendant cannot be established by joinder or  
5 intervention.

6 16. If the county where the plaintiff's claim is filed is  
7 not a proper venue, that plaintiff shall be transferred to a  
8 county where proper venue can be established. If no such county  
9 exists in the state of Missouri, the claim shall be dismissed  
10 without prejudice.

11 17. Denial of a motion to transfer venue pursuant to  
12 sections 507.040, 507.050, or 508.010, if denied in error,  
13 requires reversal, and no finding of prejudice under Missouri  
14 supreme court rule 84.13(b) is required for reversal.

15 18. For the purposes of this section, a domestic insurance  
16 company shall be deemed to reside in, and be a resident of, the  
17 county where its registered office is maintained. A foreign  
18 insurance company shall be deemed to reside in, and be a resident  
19 of, the county where its registered office is maintained. If a  
20 foreign insurance company does not maintain a registered office  
21 in any county in Missouri, the foreign insurance company shall be  
22 deemed to reside in, and be a resident of, Cole County.

23 508.012. At any time prior to the commencement of a trial,  
24 if a plaintiff or defendant, including a third-party plaintiff or  
25 defendant, is either added [or] to, removed, or severed from a  
26 petition filed in any court in the state of Missouri which would  
27 have, if originally added [or] to, removed [to], or severed from  
28 the initial petition, altered the determination of venue under

1 section 508.010, then the judge shall upon application of any  
2 party transfer the case to a proper forum [under section  
3 476.410]. For any claim that has already been filed but for  
4 which the court has not issued a final judgment as of the  
5 effective date of this act, all pretrial rulings made by the  
6 transferring court may only be reconsidered for good cause.

7 537.762. 1. A defendant whose liability is based solely on  
8 his status as a seller in the stream of commerce may be dismissed  
9 from a products liability claim as provided in this section.

10 2. This section shall apply to any products liability claim  
11 in which another defendant, including the manufacturer, is  
12 properly before the court and from whom total recovery may be had  
13 for plaintiff's claim.

14 3. A defendant may move for dismissal under this section  
15 within the time for filing an answer or other responsive pleading  
16 unless permitted by the court at a later time for good cause  
17 shown. The motion shall be accompanied by an affidavit which  
18 shall be made under oath and shall state that the defendant is  
19 aware of no facts or circumstances upon which a verdict might be  
20 reached against him, other than his status as a seller in the  
21 stream of commerce.

22 4. The parties shall have sixty days in which to conduct  
23 discovery on the issues raised in the motion and affidavit. The  
24 court for good cause shown, may extend the time for discovery,  
25 and may enter a protective order pursuant to the rules of civil  
26 procedure regarding the scope of discovery on other issues.

27 5. Any party may move for a hearing on a motion to dismiss  
28 under this section. If the requirements of subsections 2 and 3

1 of this section are met, and no party comes forward at such a  
2 hearing with evidence of facts which would render the defendant  
3 seeking dismissal under this section liable on some basis other  
4 than his status as a seller in the stream of commerce, the court  
5 shall dismiss without prejudice the claim as to that defendant.

6 6. [No order of dismissal under this section shall operate  
7 to divest a court of venue or jurisdiction otherwise proper at  
8 the time the action was commenced. A defendant dismissed  
9 pursuant to this section shall be considered to remain a party to  
10 such action only for such purposes.

11 7.] An order of dismissal under this section shall be  
12 interlocutory until final disposition of plaintiff's claim by  
13 settlement or judgment and may be set aside for good cause shown  
14 at anytime prior to such disposition.