

# SENATE BILL NO. 314

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

0422S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 490.715, 537.060, and 537.067, RSMo, and to enact in lieu thereof six new sections relating to civil procedure.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 490.715, 537.060, and 537.067, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 490.715, 537.059, 537.060, 537.067, 537.092, and 537.870, to read as follows:

490.715. 1. No evidence of collateral sources, or payments rendered under subsection 2 of this section, shall be admissible other than such evidence provided for in this section.

2. If prior to trial a defendant or his or her insurer or authorized representative, or any combination of them, pays all or any part of a plaintiff's special damages, then any portion of a plaintiff's claims for special damages that are satisfied by a payment from a defendant or the defendant's insurer or authorized representative, or any combination of them, are not recoverable from that defendant.

3. If such payments described in subsection 2 of this section are included in a plaintiff's claim for special damages at trial, the defendant who made the payment, or on whose behalf the payment was made, shall be entitled to deduct and receive a credit for such payments from any judgment as provided for in section 490.710.

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18           4. This section does not require the exclusion of  
19 evidence admissible for another proper purpose.

20           5. (1) Except as provided in subsection 2 of this  
21 section, **[parties] in any action where a plaintiff seeks to**  
22 **recover for personal injury, bodily injury, or death, any**  
23 **party** may introduce evidence of the actual cost of the  
24 medical care or treatment rendered to a plaintiff, or **[a**  
25 **patient whose care is at issue]** **to the person for whose**  
26 **injury or death a plaintiff seeks to recover.** Actual cost  
27 of the medical care or treatment shall be reasonable,  
28 necessary, and a proximate result of the negligence or fault  
29 of any party.

30           (2) **No party shall introduce evidence of the amount**  
31 **billed for medical care or treatment rendered to a plaintiff**  
32 **or a patient whose care is at issue in a plaintiff's case if**  
33 **the amount billed has been discounted pursuant to any**  
34 **contract, price reduction, or write-off by any person or**  
35 **entity or satisfied by payment of an amount less than the**  
36 **amount billed for that medical care or treatment.**

37           6. The actual cost of medical care or treatment  
38 rendered to a plaintiff or a patient whose care is at issue  
39 in a plaintiff's case and discounts pursuant to any  
40 contract, price reduction, or write-off shall be admissible  
41 evidence relevant to the potential cost of future treatment  
42 of the same type or kind to that plaintiff or patient whose  
43 care is at issue in a plaintiff's case.

44           7. For purposes of this **[subsection] section**, the  
45 phrase "actual cost of the medical care or treatment" shall  
46 be defined as a sum of money not to exceed the dollar  
47 amounts paid by or on behalf of a plaintiff, or a patient  
48 whose care is at issue **in a plaintiff's case**, plus any  
49 remaining dollar amount necessary to satisfy the financial

50 obligation, **including valid outstanding liens**, for medical  
51 care or treatment by a health care provider after adjustment  
52 for any contractual discounts, price reduction, or write-off  
53 by any person or entity.

537.059. **In all actions in which there is any count  
2 alleging a tort to recover damages and in which any party  
3 contends that the damages were caused by the alleged fault  
4 of more than one person or entity, the trier of fact shall  
5 determine the amount of fault attributable to each person or  
6 entity, regardless of whether the person or entity is a  
7 party to the action, and regardless of whether the person or  
8 entity has settled or been released from liability. Fault  
9 of another person or entity may be alleged by any party to  
10 the tort action in any claim, counterclaim, cross-claim, or  
11 as an affirmative defense. Any determination by the trier  
12 of fact as to the amount of fault attributable to a person  
13 or entity not a party to the action at the time of trial  
14 shall not be binding against or otherwise affect the rights  
15 or liabilities of that person or entity.**

537.060. Defendants in a judgment founded on an action  
2 for the redress of a private wrong shall be subject to  
3 contribution, and all other consequences of such judgment,  
4 in the same manner and to the same extent as defendants in a  
5 judgment in an action founded on contract. When an  
6 agreement by release, covenant not to sue or not to enforce  
7 a judgment is given in good faith to one of two or more  
8 persons liable in tort for the same injury or wrongful  
9 death, such agreement shall not discharge any of the other  
10 tort-feasors for the damage unless the terms of the  
11 agreement so provide[; however such agreement shall reduce  
12 the claim by the stipulated amount of the agreement, or in  
13 the amount of consideration paid, whichever is greater. The

14 agreement shall discharge the tort-feasor to whom it is  
15 given from all liability for contribution or noncontractual  
16 indemnity to any other tort-feasor. The term  
17 "noncontractual indemnity" as used in this section refers to  
18 indemnity between joint tort-feasors culpably negligent,  
19 having no legal relationship to each other and does not  
20 include indemnity which comes about by reason of contract,  
21 or by reason of vicarious liability].

537.067. 1. In all tort actions for damages, if a  
2 defendant is found to bear fifty-one percent or more of  
3 fault, then such defendant shall be jointly and severally  
4 liable for the amount of the judgment rendered against the  
5 defendants **less the total of any stipulated amount in any**  
6 **release, covenant not to sue or not to enforce a judgment**  
7 **under any agreement with any other person or entity alleged**  
8 **to have been at fault pursuant to section 537.059, or any**  
9 **consideration paid by such person or entity, whichever is**  
10 **greater.** If a defendant is found to bear less than fifty-  
11 one percent of fault, then the defendant shall only be  
12 responsible for the percentage of the judgment for which the  
13 defendant is determined to be responsible by the trier of  
14 fact; except that, a party is responsible for the fault of  
15 another defendant or for payment of the proportionate share  
16 of another defendant if any of the following applies:

17 (1) The other defendant was acting as an employee of  
18 the party;

19 (2) The party's liability for the fault of another  
20 person arises out of a duty created by the federal  
21 Employers' Liability Act, 45 U.S.C. Section 51.

22 2. The defendants shall only be severally liable for  
23 the percentage of punitive damages for which fault is  
24 attributed to such defendant by the trier of fact.

25           3. In all tort actions, no party may disclose to the  
26 trier of fact the impact of this section.

          537.092. Notwithstanding any provision of law to the  
2 contrary, in any civil action in which the trier of fact is  
3 a jury, neither a party nor the attorneys of a party shall  
4 seek or make reference to a specific dollar amount or state  
5 a range for the jury to consider with respect to awards for  
6 noneconomic damages, as that term is defined in section  
7 538.205.

          537.870. 1. Within thirty days of filing a civil  
2 action involving a latent injury or disease or a claim for  
3 medical monitoring, the claimant shall file a sworn  
4 information form specifying the evidence that provides the  
5 basis for each claim against each defendant. The sworn  
6 information form shall include the following with  
7 specificity:

8           (1) The claimant's name, date of birth, marital  
9 status, occupation, smoking history, current and past  
10 residences, current and past worksites, current and past  
11 employers, and if applicable, the name of any individual  
12 through whom the claimant alleges exposure to the product or  
13 substance that forms a basis for the civil action;

14           (2) The name and address of each individual who is  
15 knowledgeable about the exposures or events that form a  
16 basis for the civil action and the individual's relationship  
17 to the claimant;

18           (3) The manufacturer or seller and specific brand and  
19 trade name of each product or substance that forms a basis  
20 for the civil action;

21           (4) Each site, including the address of each site, and  
22 the specific location at each site where any exposure or  
23 event occurred that form a basis for the civil action;

24           (5) The beginning and ending dates of each exposure or  
25 event that form a basis for the civil action and the  
26 specific manner, frequency, and duration of each exposure or  
27 event that form a basis for the civil action;

28           (6) The specific disease or injury that is alleged; and

29           (7) A certification that all supporting documentation  
30 relating to the information required by this section has  
31 been provided to the parties.

32           2. A claimant shall supplement the information  
33 required by this section when the claimant receives  
34 information that is required to be disclosed or becomes  
35 aware that a prior disclosure was inaccurate or incomplete.

36           3. Discovery shall not commence against a defendant  
37 until the defendant's product, substance, or premises is  
38 specifically identified in the disclosures required by this  
39 section.

40           4. The court, on motion by a defendant, shall dismiss  
41 the civil action without prejudice as to any defendant whose  
42 product, substance, or premises is not specifically  
43 identified in the disclosures required by this section.

44           5. The court, on motion by a defendant, shall dismiss  
45 the civil action without prejudice as to the moving  
46 defendant or as to all defendants, as applicable, if the  
47 claimant fails to comply in whole or in part with the  
48 provisions of this section.

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