

SENATE BILL NO. 162

INTRODUCED BY MAZUREK

IN THE SENATE

January 16, 1981	Introduced and referred to Committee on Judiciary.
January 30, 1981	Committee recommend bill do pass as amended. Report adopted.
January 31, 1981	Bill printed and placed on members' desks.
February 2, 1981	Second reading, do pass as amended.
February 3, 1981	Correctly engrossed.
February 4, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

February 5, 1981	Introduced and referred to Committee on Judiciary.
March 11, 1981	Committee recommend bill be not concurred in. Report adopted.  Objection to adverse committee report. On motion taken from second reading and referred back to Committee on Judiciary. Motion adopted.
March 18, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1981	Second reading, concurred in.
March 28, 1981	Third reading, concurred in as amended. Ayes, 79; Noes, 14.

IN THE SENATE

March 30, 1981                      Returned from House with amendments.

April 2, 1981                        Second reading, amendments concurred in.

April 4, 1981                        Third reading, amendments concurred in. Ayes, 46; Noes, 1. Sent to enrolling.

April 9, 1981                        Correctly enrolled.

   Signed by President.

April 10, 1981                        Delivered to Governor.

April 16, 1981                        Returned from Governor with recommended amendments.

April 17, 1981                        Second reading, Governor's amendments concurred in.

   On motion rules suspended. Bill placed on calendar for third reading this day.

   Third reading, Governor's amendments concurred in. Ayes, 45; Noes, 4. Transmitted to House.

IN THE HOUSE

April 20, 1981                        Bill received by House.

April 22, 1981                        Second reading, Governor's amendments concurred in.

   On motion rules suspended and bill placed on third reading this day.

   Third reading, Governor's amendments concurred in. Ayes, 88; Noes, 7.

IN THE SENATE

April 22, 1981

Returned from House. Sent  
to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *162*  
 2 INTRODUCED BY *Mesquich* \_\_\_\_\_  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR  
 5 CONTRIBUTION FROM JOINT TORTFEASORS; AMENDING SECTION  
 6 27-1-703, MCA."  
 7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 27-1-703, MCA, is amended to read:

10 "27-1-703. Multiple defendants jointly and severally  
 11 liable -- right of contribution. (1) Whenever the  
 12 comparative negligence of ~~the parties~~ any party in any  
 13 action is an issue ~~and recovery is allowed against more than~~  
 14 ~~one party~~, each such party against whom recovery may be  
 15 allowed is jointly and severally liable for the amount that  
 16 may be awarded to the claimant but has the right of  
 17 contribution from any other ~~party against whom recovery is~~  
 18 ~~allowed person whose negligence is claimed to have~~  
 19 ~~contributed as a proximate cause to the injury complained~~  
 20 ~~of.~~

21 ~~(2) On motion of any party against whom a claim is~~  
 22 ~~asserted for negligence resulting in death or injury to~~  
 23 ~~person or property, any other person whose negligence is~~  
 24 ~~claimed to have contributed as a proximate cause to the~~  
 25 ~~injury complained of may be joined as an additional party to~~

1 ~~the action.~~ Contribution shall be proportional to the  
 2 negligence of the parties against whom recovery is allowed.  
 3 ~~(2)(3)~~ If for any reason all or part of the  
 4 contribution from a party liable for contribution cannot be  
 5 obtained, each of the other parties against whom recovery is  
 6 allowed is liable to contribute a proportional part of the  
 7 unpaid portion of the noncontributing party's share and may  
 8 obtain judgment in a pending or subsequent action for  
 9 contribution from the noncontributing party."

-End-

Approved by Committee  
on Judiciary

SENATE BILL NO. 162  
INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR  
CONTRIBUTION FROM JOINT TORTFEASORS; AMENDING SECTION  
27-1-703, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-703, MCA, is amended to read:

"27-1-703. Multiple defendants jointly and severally  
liable -- right of contribution. (1) Whenever the  
comparative negligence of the--parties any party in any  
action is an issue ~~and recovery is allowed against more than~~  
~~one party,~~ each such party against whom recovery may be  
allowed is jointly and severally liable for the amount that  
may be awarded to the claimant but has the right of  
contribution from any other party ~~against whom recovery is~~  
~~allowed~~ person whose negligence is--claimed--to MAY have  
contributed as a proximate cause to the injury complained  
of.

(2) On motion of any party against whom a claim is  
asserted for negligence resulting in death or injury to  
person or property, any other person whose negligence is  
claimed--to MAY have contributed as a proximate cause to the  
injury complained of may be joined as an additional party to

the action. WHENEVER MORE THAN ONE PERSON IS FOUND TO HAVE  
CONTRIBUTED AS A PROXIMATE CAUSE TO THE INJURY COMPLAINED  
OF, THE TRIER OF FACT SHALL PROPORTION THE DEGREE OF FAULT  
AMONG SUCH PERSONS. Contribution shall be proportional to  
the negligence of the parties against whom recovery is  
allowed.

(2)(3) If for any reason all or part of the  
contribution from a party liable for contribution cannot be  
obtained, each of the other parties against whom recovery is  
allowed is liable to contribute a proportional part of the  
unpaid portion of the noncontributing party's share and may  
obtain judgment in a pending or subsequent action for  
contribution from the noncontributing party."

-End-

SECOND READING

1                   SENATE BILL NO. 162  
 2                   INTRODUCED BY MAZUREK  
 3  
 4    A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR  
 5    CONTRIBUTION FROM JOINT TORTFEASORS; AMENDING SECTION  
 6    27-1-703, MCA."

7  
 8    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9           Section 1. Section 27-1-703, MCA, is amended to read:

10           "27-1-703. Multiple defendants jointly and severally  
 11    liable -- right of contribution. (1) Whenever the  
 12    comparative negligence of the--parties any party in any  
 13    action is an issue ~~and recovery is allowed against more than~~  
 14    ~~one party,~~ each such party against whom recovery may be  
 15    allowed is jointly and severally liable for the amount that  
 16    may be awarded to the claimant but has the right of  
 17    contribution from any other party ~~against whom recovery is~~  
 18    ~~allowed~~ person whose negligence is--claimed--to MAY have  
 19    contributed as a proximate cause to the injury complained  
 20    of.

21           (2) On motion of any party against whom a claim is  
 22    asserted for negligence resulting in death or injury to  
 23    person or property, any other person whose negligence is  
 24    ~~claimed--to~~ MAY have contributed as a proximate cause to the  
 25    injury complained of may be joined as an additional party to

1    the action. WHENEVER MORE THAN ONE PERSON IS FOUND TO HAVE  
 2    CONTRIBUTED AS A PROXIMATE CAUSE TO THE INJURY COMPLAINED  
 3    OF, THE TRIER OF FACT SHALL PROPORTION THE DEGREE OF FAULT  
 4    AMONG SUCH PERSONS. Contribution shall be proportional to  
 5    the negligence of the parties against whom recovery is  
 6    allowed. NOTHING CONTAINED IN THIS SECTION SHALL REQUIRE THE  
 7    JOINER OF ANY PARTY PURSUANT TO RULE 19(A) OF THE MONTANA  
 8    RULES OF CIVIL PROCEDURE OR OTHERWISE.

9           ~~(2)~~(3) If for any reason all or part of the  
 10    contribution from a party liable for contribution cannot be  
 11    obtained, each of the other parties against whom recovery is  
 12    allowed is liable to contribute a proportional part of the  
 13    unpaid portion of the noncontributing party's share and may  
 14    obtain judgment in a pending or subsequent action for  
 15    contribution from the noncontributing party."

-End-

SENATE BILL NO. 162  
INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR CONTRIBUTION FROM JOINT TORTFEASORS; AMENDING SECTION 27-1-703, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-703, MCA, is amended to read:

"27-1-703. Multiple defendants jointly and severally liable -- right of contribution. (1) whenever the comparative negligence of ~~the parties~~ any party in any action is an issue ~~and recovery is allowed against more than one party,~~ each such party against whom recovery may be allowed is jointly and severally liable for the amount that may be awarded to the claimant but has the right of contribution from any other ~~party against whom recovery is allowed~~ person whose negligence is claimed to MAY have contributed as a proximate cause to the injury complained of.

(2) On motion of any party against whom a claim is asserted for negligence resulting in death or injury to person or property, any other person whose negligence is claimed to MAY have contributed as a proximate cause to the injury complained of may be joined as an additional party to

~~the action. WHENEVER MORE THAN ONE PERSON IS FOUND TO HAVE CONTRIBUTED AS A PROXIMATE CAUSE TO THE INJURY COMPLAINED OF, THE TRIER OF FACT SHALL PROPORTION APPORTION THE DEGREE OF FAULT AMONG SUCH PERSONS. Contribution shall be proportional to the negligence of the parties against whom recovery is allowed. NOTHING CONTAINED IN THIS SECTION SHALL REQUIRE--THE--JOINER--OF--ANY--PARTY--PURSUANT--TO--RULE--19(1)--OF--THE--MONTANA--RULES--OF--CIVIL--PROCEDURE--OR--OTHERWISE, MAKE ANY PARTY INDISPENSABLE PURSUANT TO RULE 19, M.R.CIV.P.~~

(3) If for any reason all or part of the contribution from a party liable for contribution cannot be obtained, each of the other parties against whom recovery is allowed is liable to contribute a proportional part of the unpaid portion of the noncontributing party's share and may obtain judgment in a pending or subsequent action for contribution from the noncontributing party."

-End-

*House*  
JUDICIARY COMMITTEE

March 17, 1981

Respectfully report as follows: That.....SENATE..... Bill No. 162

BE AMENDED AS FOLLOWS:

1. Page 2, line 3.

Following: "SHALL"

Strike: "PROPORTION"

Insert: "apportion"

2. Page 2, lines 6 through 8.

Following: "SHALL" on line 6

Strike: remainder of line 6 through end of line 8

Insert: "make any party indispensable pursuant to Rule 19, M.R. Civ. P."



April 15, 1981

PROPOSED GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 162;  
REFERENCE COPY, AS FOLLOWS:

1. Page 1, Line 5  
Following: "TORTFEASORS"  
Insert: "AND PROVIDING FOR JOINDER OF PARTIES"
  
2. Page 2, Line 16  
Following: Line 15  
Insert: "APPLICABILITY". This act shall  
apply only to causes of action arising  
after the effective date of this act."

SENATE BILL NO. 162  
INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR CONTRIBUTION FROM JOINT TORTFEASORS AND PROVIDING FOR JOINDER OF PARTIES; AMENDING SECTION 27-1-703, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-703, MCA, is amended to read:

"27-1-703. Multiple defendants jointly and severally liable -- right of contribution. (1) Whenever the comparative negligence of the parties any party in any action is an issue and recovery is allowed against more than one party, each such party against whom recovery may be allowed is jointly and severally liable for the amount that may be awarded to the claimant but has the right of contribution from any other party against whom recovery is allowed person whose negligence is claimed to MAY have contributed as a proximate cause to the injury complained of.

(2) On motion of any party against whom a claim is asserted for negligence resulting in death or injury to person or property, any other person whose negligence is claimed to MAY have contributed as a proximate cause to the injury complained of may be joined as an additional party to

~~the action. WHENEVER MORE THAN ONE PERSON IS FOUND TO HAVE CONTRIBUTED AS A PROXIMATE CAUSE TO THE INJURY COMPLAINED OF, THE TRIER OF FACT SHALL PROPORTION APPORTION THE DEGREE OF FAULT AMONG SUCH PERSONS. Contribution shall be proportional to the negligence of the parties against whom recovery is allowed. NOTHING CONTAINED IN THIS SECTION SHALL REQUIRE THE JOINDER OF ANY PARTY PURSUANT TO RULE 19(a) OF THE MONTANA RULES OF CIVIL PROCEDURE OR OTHERWISE MAKE ANY PARTY INDISPENSABLE PURSUANT TO RULE 19, M.R.CIV.P.~~

(2)(3) If for any reason all or part of the contribution from a party liable for contribution cannot be obtained, each of the other parties against whom recovery is allowed is liable to contribute a proportional part of the unpaid portion of the noncontributing party's share and may obtain judgment in a pending or subsequent action for contribution from the noncontributing party."

SECTION 2. APPLICABILITY. THIS ACT SHALL APPLY ONLY TO CAUSES OF ACTION ARISING AFTER THE EFFECTIVE DATE OF THIS ACT.

-End-



State of Montana  
Office of the Governor  
Helena 59620

TED SCHWINDEN  
GOVERNOR

April 15, 1981

The Honorable Jean A. Turnage  
President of the Senate  
State Capitol  
Helena, Montana 59620

The Honorable Robert L. Marks  
Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return Senate Bill No. 162, "AN ACT TO PROVIDE FOR CONTRIBUTION FROM JOINT TORTFEASORS; AMENDING SECTION 27-1-703, MCA," without my signature and recommend the attached amendments for the following reasons.

Senate Bill No. 162, as passed, reforms Montana common law pertaining to apportionment of contribution among joint tortfeasors which has formed the basis of professional judgments already exercised by attorneys on cases now in process. Since SB 162 could be construed as a change in procedure rather than substantive law, it is possible that the courts could apply the apportionment principals to cases that are presently filed but that have not been brought to trial before July 1, 1981.

The amendment that I am proposing will allow SB 162 to operate on all causes of action that accrue to Plaintiffs after July 1, while also allowing cases presently in process to remain unaffected.

In addition, I am also proposing an amendment to the title of SB 162 so that it will more accurately reflect the contents of the bill.

Senator Turnage and Representative Marks

April 15, 1981

Page Two

I urge your concurrence in these amendments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ted Schwinden".

TED SCHWINDEN  
Governor