

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 *Sen* BILL NO. 162
2 INTRODUCED BY Maguire

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 actions. Contribution shall be proportional to the
2 negligence of the parties against whom recovery is allowed.
3 ~~to~~ 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-

-2-

INTRODUCED BILL
SB 162

Approved by Committee
on Judiciary

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

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

7 ~~if~~ If for any reason all or part of the
8 contribution from a party liable for contribution cannot be
9 obtained, each of the other parties against whom recovery is
10 allowed is liable to contribute a proportional part of the
11 unpaid portion of the noncontributing party's share and may
12 obtain judgment in a pending or subsequent action for
13 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
11 "27-1-703. Multiple defendants jointly and severally
12 liable -- right of contribution. (1) Whenever the
13 comparative negligence of the--parties any party in any
14 action is an issue and-recovery-is-allowed-against-more-than
15 one-party, each such party against whom recovery may be
16 allowed is jointly and severally liable for the amount that
17 may be awarded to the claimant but has the right of
18 contribution from any other party-against-whom-recovery-is
19 allowed person whose negligence is affirmed to MAY have
20 contributed as a proximate cause to the injury complained
21 of.22 (2) On motion of any party against whom a claim is
23 asserted for negligence resulting in death or injury to
24 person or property, any other person whose negligence is
25 claimed--to MAY have contributed as a proximate cause to the
26 injury complained of may be joined as an additional party to1 the actions 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 JOINDER OF ANY PARTY PURSUANT TO RULE 19(A) OF THE MONTANA
8 RULES OF CIVIL PROCEDURE OR OTHERWISE.9 (2) 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

1 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
2 CONTRIBUTION FROM JOINT TORTFEASORS; AMENDING SECTION
3 27-1-703, MCA."

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

5 Section 1. Section 27-1-703, MCA, is amended to read:
6 "27-1-703. Multiple defendants jointly and severally
7 liable -- right of contribution. (1) whenever the
8 comparative negligence of the--parties any party in any
9 action is an issue and-recovery-is-allowed-against-more-than
10 one-party, each such party against whom recovery may be
11 allowed is jointly and severally liable for the amount that
12 may be awarded to the claimant but has the right of
13 contribution from any other party-against-whom-recovery-is
14 allowed person whose negligence is--claimed--to MAY have
15 contributed as a proximate cause to the injury complained
16 of.

17 121 On motion of any party against whom a claim is
18 asserted for negligence resulting in death or injury to
19 person or property, any other person whose negligence is
20 claimed--to MAY have contributed as a proximate cause to the
21 injury complained of may be joined as an additional party to

1 the actions 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 apportion the degree
4 of fault among such persons. Contribution shall be
5 proportional to the negligence of the parties against whom
6 recovery is allowed. NOTHING CONTAINED IN THIS SECTION SHALL
7 REQUIRE--THE--DEFENDER--BE--ANY--PARTY--PURSUANT--TO--RULE--19--OF
8 THE--MONTANA--RULES--OF--CIVIL--PROCEDURE--OR--OTHERWISE--MAKE--ANY
9 PARTY INDISPENSABLE PURSUANT TO RULE 19, M.R.CIV.P.
10 f27(3) If for any reason all or part of the
11 contribution from a party liable for contribution cannot be
12 obtained, each of the other parties against whom recovery is
13 allowed is liable to contribute a proportional part of the
14 unpaid portion of the noncontributing party's share and may
15 obtain judgment in a pending or subsequent action for
16 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

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

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 APPORTION THE DEGREE
4 OF FAULT AMONG SUCH PERSONS. Contribution shall be
5 proportional to the negligence of the parties against whom
6 recovery is allowed. NOTHING CONTAINED IN THIS SECTION SHALL
7 REQUIRE--THE--JUDGMENT--OF--ANY--PARTY--PURSUANT--TO--RULE--19--AT--OF
8 THE--MONTANA--RULES--OF--CIVIL--PROCEDURE--OR--OTHERWISE--MAKE--ANY
9 PARTY--INDISPENSABLE--PURSUANT--TO--RULE--19,--M.R.CIV.P.

10 ~~t27[3]~~ If for any reason all or part of the
11 contribution from a party liable for contribution cannot be
12 obtained, each of the other parties against whom recovery is
13 allowed is liable to contribute a proportional part of the
14 unpaid portion of the noncontributing party's share and may
15 obtain judgment in a pending or subsequent action for
16 contribution from the noncontributing party."

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

- End -



TED SCHWINDEN
GOVERNOR

State of Montana
Office of the Governor
Helena 59620

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,



TED SCHWINDEN

Governor