

HB 127 INTRODUCED BY SWIFT, ET AL.
ELIMINATE JOINT LIABILITY IN TORT CASES

1/09 INTRODUCED
1/09 REFERRED TO JUDICIARY
1/16 FISCAL NOTE REQUESTED
1/19 FISCAL NOTE RECEIVED
2/16 HEARING
FAILED TO MEET TRANSMITTAL DEADLINE

1 H.B. BILL NO. 127

2 INTRODUCED BY *Swift* *Edair*

3 *Thomas NATAL Hoffmann - Sawson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING JOINT
5 LIABILITY AND THE RIGHT TO CONTRIBUTION AMONG MULTIPLE
6 TORTFEASORS IN CIVIL SUITS FOR DEATH OR INJURY TO PERSON OR
7 PROPERTY RESULTING FROM NEGLIGENCE; AND AMENDING SECTION
8 27-1-703, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

20 {2} On motion of any party against whom a claim is
21 asserted for negligence resulting in death or injury to
22 person or property, any other person whose negligence may
23 have contributed as a proximate cause to the injury
24 complained of may be joined as an additional party to the
25 action. Whenever more than one person is found to have

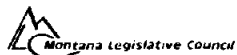
1 contributed as a proximate cause to the injury complained
2 of, the trier of fact shall apportion the degree of fault
3 among such persons. ~~Contribution shall be proportional to~~
4 ~~the negligence of the parties against whom recovery is~~
5 ~~allowed.~~ Nothing contained in this section shall make any
6 party indispensable pursuant to Rule 19, M.R.Civ.P.

7 {3} ~~if for any reason all or part of the contribution~~
8 ~~from a party liable for contribution cannot be obtained,~~
9 ~~each of the other parties against whom recovery is allowed~~
10 ~~is liable to contribute a proportional part of the unpaid~~
11 ~~portion of the noncontributing party's share and may obtain~~
12 ~~judgment in a pending or subsequent action for contribution~~
13 ~~from the noncontributing party.~~

14 (2) In an action for death or injury to person or
15 property, based upon principles of comparative fault, the
16 liability of each person against whom recovery may be
17 allowed for any damages is several only and is not joint.
18 Each party against whom recovery may be allowed is liable
19 only for the amount of damages allocated to him in direct
20 proportion to his percentage of fault, and a separate
21 judgment must be rendered against him for that amount.

22 (3) Nothing contained in this section is intended to
23 alter the law of immunity."

-End-



STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB127, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act eliminating joint liability and the right to contribution among multiple tortfeasors in civil suits for death or injury to person or property resulting from negligence; and amending section 27-1-703, MCA.

ASSUMPTIONS:

1. The state may be sued five times a year, usually in highway accident cases for damages for personal injuries in cases involving a negligent uninsured or underinsured co-defendant.
2. Defense costs in these lawsuits would average \$20,000 per case.
3. The state is not required to pay the amount of damages attributable to the co-defendant after trial.

FISCAL IMPACT:Expenditures:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Benefits & Claims	\$100,000	-0-	(\$100,000)	\$100,000	-0-	(\$100,000)
<u>Funding:</u>						
State of Montana						
Self-Insurance Fund	\$100,000	-0-	(\$100,000)	\$100,000	-0-	(\$100,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter DATE 1/19/87
 DAVID L. HUNTER, BUDGET DIRECTOR

Office of Budget and Program Planning

Bernie Swift DATE 1/19/86
 BERNIE SWIFT, PRIMARY SPONSOR

Fiscal Note for HB127, as introduced.HB-127