

ENGROSSED HOUSE AMENDMENT  
TO  
ENGROSSED SENATE BILL NO. 277

By: Stipe of the Senate  
and  
Toure of the House

( torts - amending 12 O.S., Section 832 - contribution  
among tort-feasors - gender - release of tort-feasors -  
emergency )

AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

An Act relating to torts; amending 12 O.S. 1991,  
Section 832, which relates to contribution among  
tort-feasors; modifying gender references;  
clarifying that release of one tort-feasor does not  
release other tort-feasors; and declaring an  
emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 1991, Section 832, is  
amended to read as follows:

Section 832. A. When two or more persons become jointly or  
severally liable in tort for the same injury to person or property  
or for the same wrongful death, there is a right of contribution  
among them even though judgment has not been recovered against all  
or any of them except as provided in this section.

B. The right of contribution exists only in favor of a tort-feasor who has paid more than ~~his~~ their pro rata share of the common liability, and ~~his~~ the total recovery is limited to the amount paid by ~~him~~ the tort-feasor in excess of ~~his~~ a pro rata share. No tort-feasor is compelled to make contribution beyond ~~his~~ their own pro rata share of the entire liability.

C. There is no right of contribution in favor of any tort-feasor who has intentionally caused or contributed to the injury or wrongful death.

D. A tort-feasor who enters into a settlement with a claimant is not entitled to recover contribution from another tort-feasor whose liability for the injury or wrongful death is not extinguished by the settlement nor in respect to any amount paid in a settlement which is in excess of what was reasonable.

E. A liability insurer which by payment has discharged, in full or in part, the liability of a tort-feasor and has thereby discharged in full its obligation as insurer, is subrogated to the tort-feasor's right of contribution to the extent of the amount it has paid in excess of the tort-feasor's pro rata share of the common liability. This provision does not limit or impair any right of subrogation arising from any other relationship.

F. This act does not impair any right of indemnity under existing law. When one tort-feasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of ~~his~~ the indemnity obligation.

G. This act shall not apply to breaches of trust or of other fiduciary obligation.

H. When a release, covenant not to sue, or a similar agreement is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death:

1. It does not discharge any ~~of the other tort-feasors~~ tort-feasor from liability for the injury or wrongful death ~~unless its terms so provide~~; but it reduces the claim against others to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is ~~the~~ greater; and

2. It discharges the tort-feasor to whom it is given from all liability for contribution to any other tort-feasor.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 12th day of April, 1995.

Speaker of the House of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1995.

President of the Senate