

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 277

By: Stipe of the Senate

and

Toure of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to torts; amending 12 O.S. 1991, Section 832, which relates to contribution among tort-feasors; clarifying right to contribution by other tort-feasors; modifying gender references; clarifying that release of one tort-feasor does not release other tort-feasors unless specifically named; 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~~ their pro rata share. No tort-feasor is compelled to make contribution beyond ~~his-own~~ their 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~~ the other tort-feasor is specifically named; 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.