

1 IN THE SENATE

BY RODEY

2 SENATE BILL NO. 308

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to comparative fault; and amending  
7 Rule 49(c) of the Rules of Civil Procedure."

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

9 \* Section 1. AS 09.16.020(1) is amended to read:

10 (1) their relative degrees of fault shall be the basis for  
11 allocation [NOT BE CONSIDERED];

12 \* Sec. 2. AS 09 is amended by adding a new chapter to read:

13 CHAPTER 17. COMPARATIVE FAULT.

14 Sec. 09.17.010. CLAIMANT'S CONTRIBUTORY FAULT. In a tort action  
15 for damages based on negligence, recklessness, or strict liability (in-  
16 cluding breach of warranty), a claimant's contributory fault does not  
17 bar recovery but has the effect of diminishing his damages proportion-  
18 ately according to his own fault or the fault attributable to him. In a  
19 derivative action or an action for wrongful death, the claimant's  
20 damages are diminished according to the fault of any person whose con-  
21 duct might otherwise have barred the liability. This section applies  
22 whether or not the contributory fault previously constituted a defense  
23 and replaces such common law principles as last clear chance and implied  
24 assumption of risk.

25 Sec. 09.17.020. SPECIAL INTERROGATORIES. In a tort action in-  
26 volving contributory fault, the court, unless otherwise requested by the  
27 parties, shall instruct the jury to give answers to special interroga-  
28 tories (to render special verdicts), or make findings itself if there is  
29 no jury, indicating

1 (1) the amount of damages each claimant would recover if con-  
2 tributory fault were disregarded; and

3 (2) the percentage of the fault for each party to the action  
4 as compared with the combined fault of all parties to the action. For  
5 this purpose, the court may determine that two or more persons are  
6 appropriately treated as a single party.

7 Sec. 09.17.030. DAMAGES SET OFF. Damages awarded under this chap-  
8 ter may be set off only to the extent that an award against one party  
9 cannot be collected.

10 Sec. 09.17.040. INJURIES AFFECTED. This chapter applies to all  
11 injuries incurred after the effective date of this Act.

12 Sec. 09.17.050. SEVERABILITY. If any provision of this chapter or  
13 application of it to any person or circumstance is held invalid, the  
14 invalidity does not affect other provisions or applications of the chap-  
15 ter that can be given effect without the invalid provision or applica-  
16 tion, and to this end the provisions of this chapter are severable.

17 \* Sec. 3. AS 09.17.020 in sec. 2 of this Act amends Rule 49(c) of the  
18 Rules of Civil Procedure by requiring the trial court to instruct the jury to  
19 give answers to special interrogatories in a tort action involving contribu-  
20 tory fault.