

Introduced: 2/13/79
Referred: Judiciary

1 IN THE SENATE

BY RODEY

2 SENATE BILL NO. 207

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

14 CHAPTER 17.. COMPARATIVE FAULT.

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

26 Sec. 09.17.020. SPECIAL INTERROGATORIES. In a tort action in-
27 volving contributory fault, the court, unless otherwise requested by the
28 parties, shall instruct the jury to give answers to special interroga-
29 tories (to render special verdicts), or make findings itself if there is

1 no jury, indicating

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

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

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

11 Sec. 09.17.040. INJURIES AFFECTED. This chapter applies to all
12 injuries incurred after July 1, 1979.

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

17 * Sec. 4. This Act takes effect July 1, 1979.
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