

ALASKA STATE COURT
JULY 1907

4428

CC/FC

SB

377

1306

16. Awards

Have version (only)

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Sec. 09.55.548. AWARDS. Except as provided in AS 09.17, damages in a malpractice action shall be awarded in accordance with principles of the common law.

17. Prevailing Party Attorney Fees

House version

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(b) In making an award of attorney fees to a prevailing party, the court shall consider actual attorney fees incurred by each party in the civil action. Actual attorney fees shall be supported by affidavit from the attorney representing each party.

Senate version

15 * Sec. 6. AS 09.60.010 is repealed and reenacted to read:
16 Sec. 09.60.010. COSTS AND ATTORNEY FEES ALLOWED PREVAILING
17 PART. The supreme court shall determine by rule or order the costs,
18 if any, that may be allowed a prevailing party in a civil action.
19 Unless specifically authorized by statute or by agreement between the
20 parties, attorney fees may not be awarded to a party in a civil action
21 for personal injury, death or property damage related to or arising
22 out of fault, as defined in AS 09.17.900.

18 Verification of Claims

House version

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Sec. 09.63.045. VERIFICATION OF CIVIL CLAIMS. (a) Except as provided in (b) of this section, every complaint, answer, cross-claim, and counterclaim shall be signed and verified by the party or the attorney of the party filing the pleading and shall bear a statement that the person signing the pleading believes the statements made in the pleading are true. If the court finds that a statement made in the complaint, answer, cross-claim, or counterclaim was knowingly untrue, upon motion of a party, the person signing the pleading may be compelled to show cause why the person signing the pleading should not be held in contempt of court.

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(b) For good cause, a complaint, answer, cross-claim or counter-claim may be filed without verification; provided, however, that verification of the pleading by the party or attorney of the party shall be made within 15 days of the filing of the pleading.

Senate version

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Sec. 09.17.040. VERIFICATION OF CIVIL CLAIMS. The party or the attorney of the party shall sign and verify each complaint, answer, cross-claim, and counterclaim that the party files. The verification must include a statement that the person signing the pleading believes the statements made in the pleading are true. If the court finds that a statement made in the complaint, answer, cross-claim, or counter-claim was knowingly untrue, and upon motion of a party the person signing the pleading shall be compelled to show cause why the person signing the pleading should not be held in contempt of court.

19. Repeals

House version and Senate version

- 23 * Sec. 7. AS 09.16.010, 09.16.020, 09.16.030, 09.16.040, 09.16.050, and
24 09.16.060 are repealed.

20. Applicability

House version

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* Sec. 15. APPLICABILITY. Sections 1 - 8 of this Act apply to a causes of action accruing on or after the effective date of this Act.

Senate version

24 * Sec. 15. APPLICABILITY. Sections 1 - 7 of this Act apply to all
25 causes of action accruing after the effective date of this Act, except that
26 AS 09.17.055(a) enacted in sec. 2 of this Act applies to all contracts for
27 the provision of collateral benefits that are formed or renewed after the
28 effective date of this Act.

21. Severability
Senate version (only)

29 * Sec. 16. SEVERABILITY. If any provision of this Act, or the
1 application thereof to any person or circumstance is held invalid, the
2 remainder of this Act and the application to other persons or circumstances
3 shall not be affected thereby.

22. Study

House version

* Sec. 16. (a) The Department of Law shall collect and analyze information pertaining to the insurance crisis and its relation to the civil justice system in Alaska. The study may include an analysis of closed insurance claim files and insurance company finances.

(b) All state agencies shall cooperate fully with the Department of Law in the collection and analysis of information necessary to conduct the study under (a) of this section.

(c) The Department of Law shall report its findings under this section to the legislature no later than the 30th day of the First Session of the Fifteenth Alaska Legislature.

* Sec. 17. This Act takes effect immediately in accordance with AS 01.-10.070(c).

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Study

State version

4 * Sec. 17. The Department of Law, with the assistance of the Department
5 of Commerce and Economic Development, shall contract for
6 (1) a study of closed insurance claims to identify
7 (A) the extent to which the legal system has or has not
8 been the cause of dramatic liability insurance increases and coverage
9 reduction in crisis lines in Alaska;
10 (B) how victims are faring under the present system; and
11 (C) what the various specific tort reform proposals will
12 actually accomplish;
13 (2) a study of insurance company finances to determine
14 (A) the extent to which dramatic liability insurance rate
15 increases and coverage limitations in Alaska are, or are not, cost-
16 justified in relation to awards, settlements, and relevant court
17 decisions in Alaska involving personal injury, death, or property
18 damage based on fault; and
19 (B) the extent to which legislative or regulatory actions
20 affecting the tort system in Alaska are necessary to resolve the
21 state's liability insurance crisis.

23. Effective Dates

House version

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10 || * Sec. 15. This Act takes effect immediately in accordance with AS 01.10.070(c).

Senate version

22 * Sec. 18. Except for AS 09.17.080, added by sec. 2 of this Act, this
23 Act takes effect immediately in accordance with AS 01.10.070(c).

24 * Sec. 19. AS 09.17.080, added by sec. 2 of this Act, only takes effect
25 if sec. 14 of this Act does not pass each house of the legislature by at
26 least a two-thirds majority vote. If AS 09.17.080 takes effect, it takes
27 effect immediately under AS 01.10.070(c).

house. When the second house receives the message accompanying the engrossed bill and reporting its passage, the bill shall be read by the clerk or secretary for the first time and then referred by the presiding officer to one or more committees for subsequent action by that house.

AMENDMENTS IN OTHER HOUSE

RULE 41. AMENDMENTS IN OTHER HOUSE. (a) When a bill, resolution, or citation passed in one house is amended in the other house, the bill, resolution, or citation with certified amendments is returned to the house of origin requesting concurrence. The vote on concurrence in amendments is taken by the calling of the roll and the recording of the yeas and nays in the journal. Adoption requires a majority vote of the full membership in each house. If concurrence is had the clerk or secretary notes the concurrence in the journal, informs the other house of the concurrence, and proceeds to have the bill or resolution enrolled for certification and transmittal to the governor.

(b) An amendment to a bill introduced in the other house is not in order if the amendment requires a change of the bill title other than a clerical or technical change.

CONFERENCE AND FREE CONFERENCE COMMITTEES

RULE 42. CONFERENCE AND FREE CONFERENCE COMMITTEES.

(a) If one house refuses to concur in the amendments of the other it so notifies the amending house and requests that it recede from its amendments. The vote on receding from amendments is taken by the calling of the roll and the recording of the yeas and nays in the journal. A house recedes from its amendments only by a majority vote of the full membership of the house. If the house refuses to recede, the presiding officer of each house appoints three members to sit as a Conference Committee. The committee meets when mutually agreeable to its members. If the committee reaches agreement on previously adopted amendments to a bill adopted by either house, the committee then submits an identical report to each house. The report is not subject to amendment in either house. If the report is adopted by each house the bill is enrolled, signed, and transmitted to the governor. If the members of the Conference Committee cannot agree on amendments, or if one or both houses refuses to adopt the committee report, the Conference Committee submits, an identical written report to each house listing the specific points of disagreement for which the committee requests powers of free conference. The presiding officer of each house may then give limited powers of free conference only on the specific points listed. If the members of a Conference Committee with limited powers of free conference cannot agree on amendments, or one or both houses refuses to adopt the committee report, it is then in order to appoint a Free Conference Committee. A member who served on a Conference Committee or a Conference Committee with limited powers of free conference may not be appointed to a subsequent Conference Committee or Free Conference Committee concerning the same measure. The vote on adoption of a conference committee report is taken by the calling of the

roll and the recording of the yeas and nays in the journal. Adoption requires a majority vote of the full membership of each house.

(b) A Free Conference Committee is appointed in the same manner as a Conference Committee and may suggest in its report any new amendments clearly germane to the question. When a majority of the membership of the committee from each house agrees on amendments, the amendments are attached to the bill and reported back to each house in an identical report. The report is not subject to amendment in either house. If the report is adopted in each house the bill is then ordered enrolled by its house of origin. If the members of a Free Conference Committee fail to agree on amendments or one or both houses refuses to adopt the free conference report, a second Free Conference Committee may be appointed, but no member of the first committee may be reappointed. A free conference report may not be voted on by the house until at least 24 hours after the report is duplicated and delivered to the chief clerk or secretary of the house for distribution to each member. The chief clerk or secretary shall certify the time of delivery of the report for recording in the journal. The vote on adoption of a free conference committee report is taken by the calling of the roll and the recording of the yeas and nays in the journal. Adoption requires a majority vote of the full membership of each house.

(c) A Conference Committee with limited powers of free conference or a Free Conference Committee may not include in its report on an appropriation bill an item which was not included in a version of that appropriation bill adopted in third reading by a house and the amount appropriated by an item may not exceed the higher amount appropriated by that item in a version of the bill adopted in third reading by a house. An item in an appropriation bill includes a line item, an allocation, and an appropriation.

(d) Notwithstanding the provisions of (c) of this rule, a Free Conference Committee may consider and include in its report on an appropriation bill appropriations as requested by attached fiscal notes on new legislation and resolutions that have been passed by both houses.

(e) A Conference Committee, a Conference Committee with limited powers of free conference, or a Free Conference Committee may not adopt a report that requires a change in the title of a bill other than a clerical or technical change.

ENROLLMENT

RULE 43. ENROLLMENT. (a) When a bill has passed both houses the presiding officer of the house of origin directs that it be enrolled. The clerk or secretary transmits the engrossed bill to the enrolling secretary of the legislature, who, with the revisor of statutes, checks the bill before placement in final form according to the legislative drafting manual. The enrolling secretary is authorized to correct form and manifest errors which are clerical, typographical, or errors in spelling or errors by way of additions or omissions. The enrolling secretary is required to

BSN:1328

ALASKA HOUSE OF REPRESENTATIVES

HCS-CSSB-377(JUD) NOTIO

2ND SESSION 14TH LEG

5/ 8/86 3: 3 PM

	21	YEAS	19	NAYS	0	EXC	0	ABS		
Y	ADAMS	Y	FULLER	N	LARSON	Y	FOURCHOT			
N	BINKLEY	Y	FURNACE	N	MARROU	N	RIEGER			
N	BOUCHER	Y	GOLL	N	MARTIN	N	RINGSTAD			
N	CATO	Y	GRUENBERG	Y	MILLER, M.M.	N	SHULTZ			
Y	CLOCKSIN	Y	GRUSSENDORF	N	MILLER, M.W.	Y	SUND			
N	COLLINS	N	HANLEY	Y	NAVARRE	Y	SZYMANSKI			
N	COTTEN	Y	HERRMANN	N	PEARCE	Y	TAYLOR			
Y	DAVIS	Y	HURLEY	N	PETTYJOHN	N	THOMPSON			
Y	DUNCAN	N	JENKINS	Y	PHILLIPS	Y	UEHLING			
N	FRANK	Y	KOPONEN	N	PIGNALBERTI	Y	WALLIS			

VOTED FOR

* CHANGED VOTE

#1 Aylt Jlic CS
(y) 21-19

Pignol #1 Amendment - non-economic loss to \$300,000
(n) 17-23

Pignol #2 Amendment - adding intoxication to exclusions
(n) 17-23

Pignol #3 Amendment - Limited liability
(n) 19-21

Pettigrew #4 Amendment - future damages to present value
(n) 21-19 (Binkly-no)

Collins #5 Amendment - non-economic loss to \$500,000 ~~with impact on bifurcation~~
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7 withdrawn
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Collins #9 Amendment - Contingency fees
Pignol (n) 17-23

Thompson Amendment to
(n) 17-23

Chackin #7
#11 Amendment - rescind action on #4
(u) 20-20 (Binkly-yes)

Utter # 11 Arbit - joint & seal
(w)
19-21

Pearce # 12 Arbit - check rule 82
15-25

13 Arbit - \$500,000 cap
20-20

Phillips # 14 Arbit Jurisdiction back in
Greedy 32-8

Taylor # 15 Arbit Arbitration

Bill

36-4

Chaplin
Boucher
Collins
Pigot

From Sund's office

COMPARISON BETWEEN HOUSE BILL 532 and SENATE BILL 377

(Versions as of 5/6/86)

1. Noneconomic Damages
SB 377 (only)

15 Sec. 09.17.010. NONECONOMIC DAMAGES. (a) In an action to
16 recover damages for personal injury based on negligence, damages for
17 noneconomic losses shall be limited to compensation for pain, suffer-
18 ing, inconvenience, physical impairment, disfigurement, loss of enjoy-
19 ment of life and other nonpecuniary damage.

20 (b) The amount of damages awarded by a court or jury under (a)
21 of this section may not exceed \$500,000 for each claim based on a
22 separate incident or injury.

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2. Punitive Damages

SB 377 (only)

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Sec. 09.17.020. PUNITIVE DAMAGES. Punitive damages may not be

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awarded in an action, whether in tort, contract, or otherwise, unless

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supported by clear and convincing evidence.

3. Damages from Intoxication or Crime

HB 532

12 Sec. 09.17.010. DAMAGES RESULTING FROM COMMISSION OF A CRIME. A
13 person who suffers personal injury or death may not recover damages
14 for the personal injury or death if the injuries or death occurred
15 while the person was engaged in the commission of a felony, the person
16 has been convicted of the felony, including conviction based on a
17 guilty plea or plea of nolo contendere, and the felony substantially
18 contributed to the injury or death. This section does not affect a
19 right of action under 42 U.S.C. 1983. *Handwritten signature*
20

SB 377

26 Sec. 09.17.025. DAMAGES RESULTING FROM INTOXICATION OR COMMIS-
27 SION OF A CRIME. (a) A person who suffers personal injury or death
28 may not bring an action to recover damages for the personal injury or
29 death if the injuries or death occurred while the person was

1 (1) voluntarily under the influence of intoxicating liquor
2 or under the influence of a controlled substance listed in AS 11.71.-
3 140 - 11.71.190 and the condition of being under the influence of he
4 intoxicating liquor or controlled substance contributed more than 50
5 percent to the person's injuries or death; if there was 0.10 percent
6 or more by weight of alcohol in the person's blood or 0.10 grams or
7 more of alcohol per 210 liters of the person's breath, it is presumed
8 that the person was under the influence of intoxicating liquor; or

9 (2) engaged in the commission of a felony, if the felony
10 was causally related to the injury or death in time, place, or activi-
11 ty; however, nothing in this paragraph shall affect a right of action
12 under 42 U.S.C. 1983.

13 (b) The provisions of (a)(1) of this section do not apply to a
14 person who suffers personal injury or death caused by the intentional
15 act of another person or persons.

4. Itemized Verdicts

HB 532

add punitive damages

21 Sec. 09.17.020. ITEMIZED VERDICTS. In every case where damages
22 for personal injury are awarded by the court or jury, the verdict
23 shall be itemized between economic loss and noneconomic loss, if any,
24 and economic loss shall be further itemized by category. Itemization
25 of economic loss by category includes: (1) amounts intended to com-
26 pensate for reasonable expenses that have been incurred, or which will
27 be incurred, for necessary medical, surgical, x-ray, dental, or other
28 health or rehabilitative services, drugs, and therapy; (2) amounts
29 intended to compensate for lost wages or loss of earning capacity; and
1 shall further determine the amounts intended to compensate for injury
2 or losses incurred before the verdict and amounts intended to compen-
3 sate for losses that will be incurred in the future.

SB 377

16 Sec. 09.17.030. ITEMIZED VERDICTS. In every case where damages
17 for personal injury are awarded by the court or jury, the verdict
18 shall be itemized between economic loss and noneconomic loss, if any,
19 as follows:

- 20 (1) past economic loss;
21 (2) past noneconomic loss;
22 (3) future economic loss;
23 (4) future noneconomic loss; and
24 (5) punitive damages.

5. Periodic Payments / Future Damages

HB 532

4 Sec. 09.17.030. FUTURE DAMAGES. (a) The court shall reduce a
5 lump-sum award of future damages to its present value. In reducing
6 the award to present value, the court shall consider inflation and the
7 estimated future earning capacity of the injured person.

8 (b) The court may enter a judgment that future damages be paid
9 in whole or in part by periodic payments rather than by a lump-sum
10 payment; the judgment shall include, if necessary, other provisions to
11 assure that funds are available as periodic payments become due.
12 Insurance from an authorized insurer as defined in AS 21.90.900 or
13 from the Medical Indemnity Corporation of Alaska is sufficient assur-
14 ance that funds will be available. Any part of the award that is paid
15 on a periodic basis shall be adjusted annually according to changes in
16 the consumer price index in the community where the claimant resides.
17 The court shall include as a part of the costs awarded to the claimant
18 the costs of providing periodic payment of future damages.

19 (c) A judgment ordering payment of future damages by periodic
20 payment shall specify the recipient, the dollar amount of the pay-
21 ments, the interval between payments, and the number of payments or
22 the period of time over which payments shall be made. Payments may be
23 modified only as provided in (d) of this section or in the event of
24 the death of the judgment creditor, in which case payments may not be
25 reduced or terminated, but shall be paid to persons to whom the judg-
26 ment creditor owed a duty of support, as provided by law, immediately
27 before death. In the event the judgment creditor owed no duty of
28 support to dependents at the time of the judgment creditor's death,
29 the money remaining shall be distributed in accordance with a will of

Periodic Payments / Future Damages (cont).

HB 532

1 the deceased judgment creditor or under the intestate laws of the
2 state if the deceased had no will.

3 (d) The court that rendered the original judgment may, upon
4 petition of the judgment creditor, modify the judgment to award addi-
5 tional damages if the judgment creditor incurs medical expenses that
6 were not included in the original judgment and could not have been
7 reasonably anticipated at the time of trial.

8 (e) If the court finds that the judgment debtor has exhibited a
9 continuing pattern of failing to make payments required under this
10 section, the court shall, in addition to the required periodic
11 payments, order the judgment debtor to pay the judgment creditor any
12 damages caused by the failure to make periodic payments, including
13 costs and attorney fees.

14 (f) If at any time following entry of judgment, a judgment
15 debtor fails to make a payment in a timely fashion according to the
16 terms of the part of the judgment related to periodic payments, the
17 judgment creditor may petition the court that rendered the original
18 judgment for an order requiring payment by the judgment debtor of the
19 outstanding payments in a lump sum. In calculating the amount of the
20 lump-sum judgment under this section, the court shall total the re-
21 maining periodic payments due and owing to the judgment creditor.
22 This amount may not be converted to its present value. The court may
23 also require the payment of interest on the outstanding judgment.

Periodic Payments / Future Damages (cont)

SB 377

25 Sec. 09.17.035. PERIODIC PAYMENTS. (a) In an action to recover
26 damages, the court shall, at the request of an injured party, enter
27 judgment ordering that amounts awarded a judgment creditor for future
28 damages be paid to the maximum extent feasible by periodic payments
29 rather than by a lump-sum payment if the award equals or exceeds

1 \$100,000 in future damages.

2 (b) The court may require security be posted, in order to ensure
3 that funds are available as periodic payments become due. The court
4 may not require security to be posted if an authorized insurer, as
5 defined in AS 21.90.900, acknowledges to the court its obligation to
6 discharge the judgment.

7 (c) A judgment ordering payment of future damages by periodic
8 payment shall specify the recipient, the dollar amount of the pay-
9 ments, the interval between payments, and the number of payments or
10 the period of time over which payments shall be made. Periodic pay-
11 ments shall be cumulatively adjusted annually by applying each year
12 the annual rate of change in the consumer price index for all urban
13 consumers for the Anchorage Metropolitan Area as published by the
14 Bureau of Labor Statistics of the United States Department of Labor
15 for the immediately preceding year. Payments may be modified only in
16 the event of the death of the judgment creditor, in which case pay-
17 ments may not be reduced or terminated, but shall be paid to persons
18 to whom the judgment creditor owed a duty of support, as provided by
19 law, immediately before death. In the event the judgment creditor
20 owed no duty of support to dependents at the time of the judgment
21 creditor's death, the money remaining shall be distributed in accor-
22 dance with a will of the deceased judgment creditor accepted into
23 probate or under the intestate laws of the state if the deceased had
24 no will.

25 (d) If the court finds that the judgment debtor has exhibited a
26 continuing pattern of failing to make payments required under (c) of
27 this section, the court shall, in addition to the required periodic
28 payments, order the judgment debtor to pay the judgment creditor any
29 damages caused by the failure to make periodic payments, including
1 costs and attorney fees.

6. Verification of Civil Claims

SB 377

~~SB 377~~

2 Sec. 09.17.040. VERIFICATION OF CIVIL CLAIMS. The party or the
3 attorney of the party shall sign and verify each complaint, answer,
4 cross-claim, and counterclaim that the party files. The verification
5 must include a statement that the person signing the pleading believes
6 the statements made in the pleading are true. If the court finds that
7 a statement made in the complaint, answer, cross-claim, or counter-
8 claim was knowingly untrue, and upon motion of a party the person
9 signing the pleading shall be compelled to show cause why the person
10 signing the pleading should not be held in contempt of court.

HB 532

24 * Sec. 6. AS 09.63 is amended by adding a new section to read:

25 Sec. 09.63.045. VERIFICATION OF CIVIL CLAIMS. (a) Except as
26 provided in (b) of this section, every complaint, answer, cross-claim,
27 and counterclaim shall be signed and verified by the party or the
28 attorney of the party filing the pleading and shall bear a statement
29 that the person signing the pleading believes the statements made in
1 the pleading are true. If the court finds that a statement made in
2 the complaint, answer, cross-claim, or counterclaim was knowingly
3 untrue, upon motion of a party, the person signing the pleading may be
4 compelled to show cause why the person signing the pleading should not
5 be held in contempt of court.

6 (b) For good cause, a complaint, answer, cross-claim or
7 counter-claim may be filed without verification; provided, however,
8 that verification of the pleading by the party or attorney of the
9 party shall be made within 15 days of the filing of the pleading.
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7. Limited Liability

HR 532

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Sec. 09.17.040. LIMITED LIABILITY OF CERTAIN DIRECTORS AND OFFICERS. (a) Unless the act or omission constituted gross negligence, a person may not recover tort damages for personal injury, death, or damage to property for an act or omission to act in the course and scope of official duties, as a member or officer of the following:

1 (1) a member of the board of directors or an officer of a
2 nonprofit corporation;

3 (2) a member of the board of directors of a public or
4 nonprofit hospital, or a member of a citizen's advisory board of any
5 hospital;

6 (3) a member of a school board of a school district;

7 (4) a member of the governing body, a commission, or a
8 citizen's advisory committee of a municipality of the state.

9 (b) Notwithstanding (a) of this section, the duties and liabilities
10 of a director or officer of a nonprofit corporation to the
11 corporation or the corporation's shareholders may not be limited or
12 modified.

13 (c) In this section "nonprofit corporation" means a corporation
14 that qualifies for exemption from taxation under 26 U.S.C. 501(c)(3),
15 (Internal Revenue Code). (4)

Limited Liability (cont)

SB 377

11 Sec. 09.17.045. LIMITED LIABILITY OF CERTAIN DIRECTORS AND
12 OFFICERS. (a) Unless the act or omission constituted gross negli-
13 gence, a person may not recover damages for a negligent act or omis-
14 sion to act, in the course and scope of official duties, from the
15 following:

16 (1) a member of the board of directors or an officer of a
17 nonprofit corporation;

18 (2) a member of the board of directors of a public or
19 nonprofit hospital or a community-based advisory board of a hospital;

20 (3) a member of a school board of a school district;

21 (4) a member of a governing board, commission, or citizen
22 advisory committee of a municipality in the state.

23 (b) Notwithstanding (a) of this section, the duties and liabil-
24 ities of a director or officer of a nonprofit corporation to the
25 corporation or the corporation's shareholders may not be limited or
26 modified.

8. Contributory Fault

HB 532

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Sec. 09.17.050. EFFECT OF CONTRIBUTORY FAULT. In an action based on fault seeking to recover damages for injury or death to person or harm to property, contributory fault chargeable to the claimant diminishes proportionately the amount awarded as compensatory damages for an injury attributable to the claimant's contributory fault, but does not bar recovery.

SB 377

27 Sec. 09.17.050. EFFECT OF CONTRIBUTORY FAULT. In an action
28 based on fault seeking to recover damages for injury or death to a
29 person or harm to property, contributory fault chargeable to the
1 claimant diminishes proportionately the amount awarded as compensatory
2 damages for the injury attributable to the claimant's contributory
3 fault, but does not bar recovery.

9. Collateral Benefits

HB 532

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Sec. 09.17.055. COLLATERAL BENEFITS. (a) After the fact finder has rendered an award to a claimant, and after the court has awarded costs and attorney fees, a defendant may introduce evidence of amounts received or to be received by the claimant as compensation for the same injury from collateral sources that do not have a right of subrogation by law or contract.

(b) If the defendant elects to introduce evidence under (a) of this section, the claimant may introduce evidence of

(1) the amount that the actual attorney fees incurred by the claimant in obtaining the award exceed the amount of attorney fees awarded to the claimant by the court; and

(2) the amount that the claimant has paid or contributed to secure the right to an insurance benefit introduced by the defendant as evidence.

(c) If the total amount of collateral benefits introduced as evidence under (a) of this section exceeds the total amount that the claimant introduced as evidence under (b) of this section, the court shall deduct from the total award the amount by which the value of the nonsubrogated sum awarded under (a) of this section exceeds the amount of payments under (b) of this section.

(d) Notwithstanding (a) of this section, the defendant may not introduce evidence of

(1) benefits that under federal law cannot be reduced or offset;

(2) a deceased's life insurance policy; or

(3) gratuitous benefits provided to the claimant.

(e) This section does not apply to a medical malpractice action filed under AS 09.55

Collateral Benefits

SB 377

4 Sec. 09.17.055. COLLATERAL BENEFITS. (a) After the fact finder
5 has rendered an award to a claimant, and after the court has awarded
6 costs and attorney fees, a defendant may introduce evidence of amounts
7 received or to be received by the claimant as compensation for the
8 same injury from collateral sources that do not have a right of subro-
9 gation against the claimant by law or contract.

10 (b) If the defendant elects to introduce evidence under (a) of
11 this section, the claimant may introduce evidence of

12 (1) the amount that the actual attorney fees incurred by
13 the claimant exceed the amount of the attorney fees awarded to the
14 claimant; and

15 (2) the amount that the claimant has paid or contributed to
16 secure the right to an insurance benefit introduced by the defendant
17 as evidence.

18 (c) If the total amount of collateral benefits introduced as
19 evidence under (a) of this section exceeds the total amount that the
20 claimant introduced as evidence under (b) of this section, the court
21 shall deduct from the amount awarded the claimant, the amount by which
22 the value of the benefits under (a) of this section exceeds the amount
23 of payments under (b) of this section.

24 (d) Notwithstanding (a) of this section, the defendant may not
25 introduce evidence of

26 (1) benefits that cannot be reduced or offset by federal
27 law;

28 (2) a deceased's life insurance policy; or

29 (3) gratuitous benefits provided to the claimant.

1 (e) This section does not apply to a medical malpractice action
2 filed under AS 09.55.

10. Apportionment of Damages

HB 532

19 Sec. 09.17.060. APPORTIONMENT OF DAMAGES. (a) In all actions
20 involving fault of more than one party to the action, including third-
21 party defendants and persons who have been released under AS 09.17.-
22 070, the court, unless otherwise agreed by all parties, shall instruct
23 the jury to answer special interrogatories or, if there is no jury,
24 shall make findings, indicating

25 (1) the amount of damages each claimant would be entitled
26 to recover if contributory fault is disregarded; and

27 (2) the percentage of the total fault of all of the parties/
28 to each claim that is allocated to each claimant, defendant, third-
29 party defendant, and person who has been released from liability under
AS 09.17.070.

1 (b) In determining the percentages of fault, the trier of fact
2 shall consider both the nature of the conduct of each party at fault,
3 and the extent of the causal relation between the conduct and the
4 damages claimed. The trier of fact may determine that two or more
5 persons are to be treated as a single party if their conduct was a
6 cause of the damages claimed and the separate act or omission of each
7 person cannot be distinguished.

8 (c) The court shall determine the award of damages to each
9 claimant in accordance with the findings, subject to a reduction under
10 AS 09.17.070, and enter judgment against each party liable. The court
11 also shall determine and state in the judgment each party's equitable
12 share of the obligation to each claimant in accordance with the re-
13 spective percentages of fault.

14 (d) The court shall enter judgment against each party liable on
15 the basis of joint and several liability, except that a party who is
16 allocated less than 50 percent of the total fault allocated to all the
17 parties may not be jointly liable for more than twice the percentage
18 of fault allocated to that party.
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Apportionment of Damages

SB 377

3 Sec. 09.17.060. APPORTIONMENT OF DAMAGES. (a) In all actions
4 involving fault of more than one party to the action, including third-
5 party defendants and persons who have been released under AS 09.17.-
6 070, the court, unless otherwise agreed by all parties, shall instruct
7 the jury to answer special interrogatories or, if there is no jury,
8 shall make findings, indicating

9 (1) the amount of damages each claimant would be entitled
10 to recover if contributory fault is disregarded; and

11 (2) the percentage of the total fault of all of the parties
12 to each claim that is allocated to each claimant, defendant, third-
13 party defendant, and person who has been released from liability under
14 AS 09.17.070; for this purpose the court may determine that two or
15 more persons are to be treated as a single party.

16 (b) In determining the percentages of fault, the trier of fact
17 shall consider both the nature of the conduct of each party at fault
18 and the extent of the causal relation between the conduct and the
19 damages claimed.

20 (c) The court shall determine the award of damages to each
21 claimant in accordance with the findings, subject to a reduction under
22 AS 09.17.070, and enter judgment against each party liable on the
23 basis of rules of several liability. The court shall also determine
24 and state in the judgment each party's equitable share of the obliga-
25 tion to each claimant in accordance with the respective percentages of
26 fault.

11. Effect of Release

HB 532

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Sec. 09.17.070. EFFECT OF RELEASE. When a release or covenant not to sue or not to enforce judgment 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 tortfeasors from liability for the injury or wrongful death unless its terms so provide; but it reduces the claim against the 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 tortfeasor to whom it is given from all liability for contribution to any other tortfeasor.

SB 377

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Sec. 09.17.070. EFFECT OF RELEASE. A release, covenant not to sue, or similar agreement entered into by a claimant and a person liable discharges that person from liability to the claimant, but it does not discharge another person liable upon the same claim unless the release, covenant not to sue, or similar agreement provides for discharge. However, the claim of the releasing person against other persons is reduced by the amount of the released person's equitable share of the obligation, determined in accordance with the provisions of AS 09.17.060.

12. Contingency Fees
SB 377 (only)

7 Sec. 09.17.080. CONTINGENT FEE AGREEMENTS. (a) An attorney may
8 not contract for or collect a contingency fee for representing a
9 person seeking damages in connection with an action for personal
10 injury based on negligence in excess of 25 percent of the amount
11 recovered.

12 (b) If periodic payments for future damages are awarded, the
13 present value of the periodic payments must be included in computing
14 the total award from which attorney fees are calculated under this
15 section.

16 (c) An attorney may not contract for or receive a fee for de-
17 fending a person against a claim for damages in connection with an
18 action for personal injury based on negligence, in excess of 25 per-
19 cent of the amount recovered or if no amount is recovered by the
20 plaintiff, 25 percent of the amount in controversy.

21 (d) The limitations in (a) - (c) of this section apply whether
22 the recovery is by settlement, arbitration, or judgment.

This section takes effect only if section
regarding Rule 82 (As 09.60.010) does not pass
each house by at least 2/3 majority.

13. offer of judgment

Strike Definition

HB 532 same

16 Sec. 09.30.065. OFFERS OF JUDGMENT. At any time more than 10
17 days before the trial begins [ON OR BEFORE THE 60TH DAY FOLLOWING THE
18 FILING OF AN ANSWER IN A CIVIL ACTION, AND ON THE FIFTH DAY FOLLOWING
19 THE DAY DISCOVERY CLOSES AS ORDERED BY THE COURT], either the party
20 making a claim or the party defending against a claim may serve upon
21 the adverse party an offer to allow judgment to be entered in complete
22 satisfaction of the claim for the money or property or to the effect
23 specified in the offer, with costs [COST] then accrued. If within 10
24 days after the service of the offer the adverse party serves written
25 notice that the offer is accepted, either party may then file the
26 offer and notice of acceptance together with proof of service, and the
27 clerk shall enter judgment. An offer not accepted within 10 days is
28 considered withdrawn and evidence of that offer is not admissible
29 except in a proceeding to determine the form of judgment after

1 verdict. If the judgment finally entered on the claim as to which an
2 offer has been made under this section is not more favorable to the
3 offeree than the offer, the interest awarded under AS 45.45.010(a) and
4 accrued up to the date judgment is entered shall be adjusted as fol-
5 lows:

6 (1) if the offeree is the party making the claim, the
7 interest rate shall be reduced by five [TWO] percent a year;

8 (2) if the offeree is the party defending against the
9 claim, the interest rate shall be increased by five [TWO] percent a
10 year.

Offer of Judgment (cont.)

SB 377

4 Sec. 09.30.065. OFFERS OF JUDGMENT. At any time more than 10
5 days before the trial begins [ON OR BEFORE THE 60TH DAY FOLLOWING THE
6 FILING OF AN ANSWER IN A CIVIL ACTION, AND ON THE FIFTH DAY FOLLOWING
7 THE DAY DISCOVERY CLOSES AS ORDERED BY THE COURT], either the party
8 making a claim or the party defending against a claim may serve upon
9 the adverse party an offer to allow judgment to be entered in complete
10 satisfaction of the claim for the money or property or to the effect
11 specified in the offer, with cost then accrued. If within 10 days
12 after the service of the offer the adverse party serves written notice
13 that the offer is accepted, either party may then file the offer and
14 notice of acceptance together with proof of service, and the clerk
15 shall enter judgment. An offer not accepted within 10 days is con-
16 sidered withdrawn and evidence of that offer is not admissible except
17 in a proceeding to determine the form of judgment after verdict. If
18 the judgment finally entered on the claim as to which an offer has
19 been made under this section is not more favorable to the offeree than
20 the offer, the interest awarded under AS 09.30.070 [AS 45.45.010(a)]
21 and accrued up to the date judgment is entered shall be adjusted as
22 follows:

23 (1) if the offeree is the party making the claim, the
24 interest rate shall be reduced by five [TWO] percent a year;

25 (2) if the offeree is the party defending against the
26 claim, the interest rate shall be increased by five [TWO] percent a
27 year.

14. Interest on Judgments

HB 532

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* Sec. 3. AS 09.30.070 is amended by adding a new subsection to read:

(b) Except when the court finds that the parties have agreed otherwise, prejudgment interest accrues from the day the cause of action accrues.

SB 377

28 * Sec. 4. AS 09.30.070 is amended to read:

29 Sec. 09.30.070. INTEREST ON JUDGMENTS. The rate of interest on

1 judgments and decrees for the payment of money is equal to the 12th
2 Federal Reserve district discount rate as determined under AS 45.45.
3 010(b) [10.5 PERCENT A YEAR], except that a judgment or decree founded
4 on a contract in writing, providing for the payment of interest until
5 paid at a specified rate not exceeding the legal rate of interest for
6 that type of contract, bears interest at the rate specified in the
7 contract if the interest rate is set out in the judgment or decree.

8 * Sec. 5. AS 09.30.070 is amended by adding a new subsection to read:

9 (b) Except when the court finds that the parties have agreed
10 otherwise, prejudgment interest accrues from the day process is served
11 on the defendant or the day the defendant received written notifica-
12 tion of the claim, whichever is earlier. Evidence to be considered by
13 the finder of fact may include the amount of the prejudgment interest
14 that may be added to the award.

15. Awards

HB 532 (only)

15 || * Sec. 4. AS 09.55.548 is repealed and reenacted to read:

6 || Sec. 09.55.548. AWARDS. Except as provided in AS 09.17, damages
17 || in a malpractice action shall be awarded in accordance with principles
18 || of the common law.

16. Prevailing Party Attorney Fees

HB 532

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* Sec. 5. AS 09.60.010 is amended by adding a new subsection to read:

(b) In making an award of attorney fees to a prevailing party, the court shall consider actual attorney fees incurred by each party in the civil action. Actual attorney fees shall be supported by affidavit from the attorney representing each party.

SB 377

15 * Sec. 6. AS 09.60.010 is repealed and reenacted to read:

16 Sec. 09.60.010. COSTS AND ATTORNEY FEES ALLOWED PREVAILING
17 PARTY. The supreme court shall determine by rule or order the costs,
18 if any, that may be allowed a prevailing party in a civil action.
19 Unless specifically authorized by statute or by agreement between the
20 parties, attorney fees may not be awarded to a party in a civil action
21 for personal injury, death or property damage related to or arising
22 out of fault, as defined in AS 09.17.900.

Jurisdiction

HB 532 (only)

*Sec. 7. AS 22.15.030(a) is amended to read:

(a) The district court has jurisdiction of civil cases and proceedings as follows:

(1) for the recovery of money or damages when the amount claimed exclusive of costs, interest and attorney fees does not exceed \$35,000 [\$25,000];

(2) for the recovery of specific personal property, when the value of the property claimed and the damages for the detention do not exceed \$35,000 [\$25,000];

(3) for the recovery of a penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$35,000 [\$25,000];

(4) to give judgment without action upon the confession of the defendant for any of the cases specified in this section, except for a penalty or forfeiture imposed by statute;

(5) for establishing the fact of death of any person in the manner prescribed in AS 09.55.020 - 09.55.060;

(6) for the recovery of the possession of premises in the manner provided under AS 09.45.070 - 09.45.160 when the value [OF THE PROPERTY OR] of the arrears and damage to the property does not exceed \$35,000 [\$25,000];

(7) for the foreclosure of a lien when the amount in controversy does not exceed \$25,000;

(8) for the recovery of money or damages in motor vehicle tort cases when the amount claimed exclusive of costs, interest and attorney fees does not exceed \$35,000 [\$25,000];

(9) over civil actions for taking utility service and for damages to or interference with a utility line filed under AS 42.20.-030;

(10) over cases involving injunctive relief for domestic violence under AS 25.35.010 and 25.35.020.

18. Severability

SB 377 (only)

29 * Sec. 16. SEVERABILITY. If any provision of this Act, or the

1 application thereof to any person or circumstance is held invalid, the
2 remainder of this Act and the application to other persons or circumstances
3 shall not be affected thereby.

19.

Study

SB 377 (only)

4 * Sec. 17. The Department of Law, with the assistance of the Department
 5 of Commerce and Economic Development, shall contract for
 6 (1) a study of closed insurance claims to identify
 7 (A) the extent to which the legal system has or has not
 8 been the cause of dramatic liability insurance increases and coverage
 9 reduction in crisis lines in Alaska;
 10 (B) how victims are faring under the present system; and
 11 (C) what the various specific tort reform proposals will
 12 actually accomplish;
 13 (2) a study of insurance company finances to determine
 14 (A) the extent to which dramatic liability insurance rate
 15 increases and coverage limitations in Alaska are, or are not, cost-
 16 justified in relation to awards, settlements, and relevant court
 17 decisions in Alaska involving personal injury, death, or property
 18 damage based on fault, and
 19 (B) the extent to which legislative or regulatory actions
 20 affecting the tort system in Alaska are necessary to resolve the
 21 state's liability insurance crisis.

regulates - same ~~same~~ SB 377

- sec 12 - moved to HB 532
- sec 13 - " " HB 532
- sec 14 - delete
- sec 15 - applying - take HB 532
- sec 19 - delete
- ~~sec 18~~ immediate effective date

Alaska State Legislature
House of Representatives



Labor and Commerce Committee

TO: Members, House Labor & Commerce Committee
FR: Sid Billingslea, Committee Aide *KB*
DT: 4/4/86
RE: HB 532 Sectional analysis

The following is a sectional analysis of the latest draft of HB 532. I have excluded policy statements and background information.

.010 Limit and cap on noneconomic damages: Awards shall not exceed 25% of the present value of the amount awarded for economic damages, and in no cases shall the amount exceed 500,000 dollars.

.011 Defines noneconomic damages.

.020 Punitive damages: Raises the burden of proof from current "preponderance of evidence" to "clear and convincing" - the highest standard of proof in civil law. 50% of punitives go to the plaintiff, 50% to the state general fund. Precludes the state from joining a suit for damages.

.025 Damages resulting from intoxication, or in commission of a felony: If a claimant was legally under the influence of drugs or alcohol at the time of injury or death, and if he contributed more than 50% to that harm, he is barred from any recovery. The same applies if the claimant was engaged in the commission of a felony, if the felony was causally related to the injury or death. Nothing in this section is intended to bar the claimant's rights under 42USCsec.1983, the Civil Rights Statute.

.030 Itemized verdicts: Requires a jury or court to divide noneconomic and economic damages and itemize them.

.035 Periodic payments: Where the future damages in a personal injury case exceed 50 thousand dollars the court may require periodic payments to be scheduled, if it is in

the best interest of the party. The fund allocated for the total future damages award would be placed in escrow or trust.

(b) The remaining payments go to the judgment creditor's estate upon his death.

(c) Costs of structuring periodic payments are included in the award to the claimant.

(d) Allows for modification if unanticipated medical expenses arise.

(e) If the judgement debtor displays a continuing pattern of nonpayment, the court may hold him in contempt and order him to pay any damages resulting from his failure to pay, including costs and attorney fees.

(f) If a judgment debtor fails to pay in a timely manner, the judgment creditor may ask the court to order the rest of the periodic payments to be made in a lump sum. The lump sum would not be reduced to present value, and interest may be awarded.

.040 Verification of Claims: Every pleading entered by either the plaintiff or defendant shall be verified. Requires element of intent.

.045 Limits liability of directors, officers and superintendents of nonprofit corporations, public and private hospitals and school districts to gross negligence and to acts or omissions outside the scope of duty.

.050 Effect of contributory fault. The percentage of fault for which the plaintiff is to blame is reduced from the award, but does not bar recovery.

.055 Collateral benefits: After the award is rendered the defendant may introduce evidence of nonsubrogated benefits received by the plaintiff, which may be deducted from the award. The plaintiff may in response introduce evidence of the cost of the collateral benefits received by him; these may be offset from the amount credited to the defendant. Plaintiff may also admit costs of actual attorney fees which exceeded the amount awarded by the court. The defendant may not introduce evidence of benefits which are subrogated, life insurance benefits or gratuitous benefits.

.060 Apportionment of damages: Factfinder determines the percentage of fault to each party. Factfinder may treat two parties as a single party in a master-servant, principal-agent relationship; also allows two or more persons to be treated as a single person if the cause and the separate acts of each person cannot be distinguished. Example: A&B independently start fires. The fires burn, join, and destroy plaintiff's property. Each fire itself would have destroyed the property, A&B are each 100% at fault. Only 100% may be collected as damages. The

factfinder may hold each defendant jointly liable for 100% of the damages. This is the classic joint liability situation.

(c) Court states each party's share of fault and obligation to pay the award.

(d) Each party is jointly and severally liable for damages, except if a party is under 50% at fault he may be held responsible for no more than twice that percentage of the award, should there be insolvent defendants, or defendants who cannot pay their entire share.

Example 1: A&B are sued. A is held 10% at fault, B 90%. B has money and can pay his amount. A pays 10% and B 90%

Example 2: same, only B cannot pay all of his portion. A's 10% is doubled, and A is responsible for 20% of the total.

Example 3: If A is 51% or more at fault and B cannot pay, A pays total award.

.070 Effect of release: When a party is released from the suit for whatever reason, the dollar amount of that release is deducted from the award.

.900 Defines fault

09.10.075: Actions under \$75,000 must be arbitrated before resorting to the courts.

.065 Offers of judgment: Up until 10 days before trial a party may offer to settle. If the offer is not accepted, and if the offeree does not better the offer in trial, the offeree is penalized by either adding (if the offeree is the defense) or subtracting (if the offeree is the plaintiff) 5% interest to the award per year. The amount is in addition to the statutory percentage. The interest penalty dates back to the occurrence.

.43.110 Confirmation of award

.160 Allows 60 days to file appeal from arbitration for a trial de novo.

.55.548 damages are awarded under principles of common law.

.60.010 Attorney fees: Except where statute authorizes payment of attorney fees, the Supreme Court shall determine by rule or order what fees and costs shall be awarded the prevailing party in a case. But--unless authorized by statute or agreement between parties attorney fees may not be awarded in a civil case. Abolishes Civil Rule 82, by the Supreme Court, authorizing payment of attorney fees.e

.60.035 Costs and Attorney fees for arbitration appeal: If a party appeals from arbitration and does not better his lot by 10% over (or under) the arbitration award, he is to pay the prevailing party's actual costs and fees.

A new section has been added which would enable a party to petition the court for review of the fees that party paid its attorney for reasonableness. Establishes certain criteria the court may consider in its review. Remaining sections grant and restate jurisdiction of the courts and note civil rules amended by the bill.

Original sponsors: Cotten, Binkley,
Collins, et al

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 532 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to civil actions; amending Alaska
7 Rules of Civil Procedure 11, 49, 52, 58, 68, and 82;
8 and providing for an effective date."

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

10 * Section 1. AS 09 is amended by adding a new chapter to read:

11 CHAPTER 17. LIMITATIONS ON CIVIL LIABILITY.

12 Sec. 09.17.010. NONECONOMIC DAMAGES. In an action to recover
13 damages for personal injury based on negligence, damages for noneco-
14 nomic losses ^{to each person} shall be limited to 25 percent of the present value of
15 the damages awarded for economic losses, or \$500,000 whichever amount
16 is lower.

17 Sec. 09.17.020. PUNITIVE DAMAGES. (a) Punitive damages may not
18 be awarded in an action, whether in tort, contract, or otherwise,
19 unless supported by clear and convincing evidence. Fifty percent of
20 any punitive or exemplary damages that may be adjudged against the
21 party defending the claim shall be awarded to the benefit of the state
22 and when paid deposited in the general fund.

23 (b) The amount of punitive damages awarded to the state shall be
24 considered a part of the amount recovered by the claiming party for
25 purposes of calculating an award of attorney fees.

26 (c) Except for purposes of seeking execution on a judgment, the
27 state may not bring or be joined in an action based on punitive dam-
28 ages that may be awarded under this section.

29 Sec. 09.17.025. DAMAGES RESULTING FROM INTOXICATION OF

1 COMMISSION OF A CRIME. A person who suffers personal injury or death
2 may not recover damages for the personal injury or death if the in-
3 juries or death occurred while the person was

4 (1) under the influence of intoxicating liquor or a con-
5 trolled substance listed in AS 11.71.140 - 11.71.190 and the condition
6 of being under the influence of the intoxicating liquor or controlled
7 substance contributed more than 50 percent to the person's injuries or
8 death; if there was 0.10 percent or more by weight of alcohol in the
9 person's blood or 0.10 grams or more of alcohol per 210 liters of the
10 person's breath, it is presumed that the person was under the influ-
11 ence of intoxicating liquor;

12 (2) engaged in the commission of a felony, if the felony
13 was causally related to the injury or death in time, place, or activi-
14 ty; however, nothing in this paragraph shall affect a right of action
15 under 42 U.S.C. 1983.

16 Sec. 09.17.030. ITEMIZED VERDICTS. In every case where damages
17 for personal injury are awarded by the court or jury, the verdict
18 shall be itemized between economic loss and noneconomic loss, if any,
19 and economic loss shall be further itemized by category. Itemization
20 of economic loss by category includes: (1) amounts intended to com-
21 pensate for reasonable expenses that have been incurred, or which will
22 be incurred, for necessary medical, surgical, x-ray, dental, or other
23 health or rehabilitative services, drugs, and therapy; (2) amounts
24 intended to compensate for lost wages or loss of earning capacity; and
25 (3) all other economic losses granted by the fact finder. A verdict
26 shall further determine the amounts intended to compensate for injury
27 or losses incurred before the verdict and amounts intended to compen-
28 sate for losses that will be incurred in the future.

29 Sec. 09.17.035. PERIODIC PAYMENTS. (a) In an action where the

1 damages for personal injury include an award for future damages in
2 excess of \$75,000, the court may, if it determines that it is in the
3 interest of the injured party or the public, require that the portion
4 of the total award allocated for future damages be paid into the court
5 and placed in a trust account in a bank or savings and loan associa-
6 tion or placed with a licensed escrow agent and paid to the judgment
7 creditor in periodic payments rather than in a lump-sum payment.

8 (b) A judgment ordering payment of future damages by periodic
9 payment shall specify the recipient, the dollar amount of the pay-
10 ments, the interval between payments, and the number of payments or
11 the period of time over which ^{Adjust payments monthly} payments shall be made. Payments may be
12 modified only as provided in (d) of this section or in the event of
13 the death of the judgment creditor, in which case payments may not be
14 reduced or terminated, but shall be paid to persons to whom the judg-
15 ment creditor owed a duty of support, as provided by law, immediately
16 before death. In the event the judgment creditor owed no duty of
17 support to dependents at the time of the judgment creditor's death,
18 the money remaining in the trust shall be distributed in accordance
19 with a will of the deceased judgment creditor or under the intestate
20 laws of the state if the deceased had no will.

21 (c) The court shall include as part of the costs awarded to the
22 claimant the costs of providing periodic payment of future economic
23 losses ^{using MIAA model.} ~~through a trust account as required by this section.~~

24 (d) The court that rendered the original judgment may, upon
25 petition of the judgment creditor, modify the judgment to award and
26 apportion the unpaid future damages specified in AS 09.17.030 if the
27 judgment creditor incurs unanticipated medical expenses that periodic
28 payments paid to date do not cover.

29 (e) If the court finds that the judgment debtor has exhibited a

1 continuing pattern of failing to make payments required under (b) of
2 this section, the court shall, in addition to the required periodic
3 payments, order the judgment debtor to pay the judgment creditor any
4 damages caused by the failure to make periodic payments, including
5 costs and attorney fees.

6 (f) If at any time following entry of judgment, a judgment
7 debtor fails to make a payment in a timely fashion according to the
8 terms of the part of the judgment related to periodic payments, the
9 judgment creditor may petition the court that rendered the original
10 judgment for an order requiring payment by the judgment debtor of the
11 outstanding payments in a lump sum. In calculating the amount of the
12 lump-sum judgment under this section, the court shall total the re-
13 maining periodic payments due and owing to the judgment creditor.
14 This amount may not be converted to its present value. The court may
15 also require the payment of interest on the outstanding judgment.

16 Sec. 09.17.040. VERIFICATION OF CIVIL CLAIMS. Every complaint,
17 answer, cross-claim, and counterclaim shall be signed and verified by
18 the party or the attorney of the party filing the pleading and shall
19 bear a statement that the person signing the pleading believes the
20 statements made in the pleading are true. If the court finds that a
21 statement made in the complaint, answer, cross-claim, or counterclaim
22 was knowingly untrue, ~~and~~ upon motion of a party, the person signing
23 the pleading shall be compelled to show cause why the person signing
24 the pleading should not be held in contempt of court.

25 Sec. 09.17.045. LIMITED LIABILITY OF CERTAIN DIRECTORS, OFFICERS
26 AND SUPERINTENDENTS. (a) Unless the act or omission constituted
27 gross negligence, a person may not recover ^{lost} damages for ^{personal expense for} an act or
28 omission to act, in the course and scope of official duties, from the
29 following:

1 (1) a member of the board of directors or an officer of a
2 nonprofit corporation;

3 (2) a member of the board of directors of a public or ^{local}
4 ^{a certain category of} private hospital; *(would exclude private nonprofit - open to ?)*

5 (3) a member of a school board or superintendent of a
6 school district;

7 (4) an elected or appointed official of a political subdivi-
8 sion of the state.

9 (b) Notwithstanding (a) of this section, the duties and liabil-
10 ities of a director or officer of a nonprofit corporation to the
11 corporation or the corporation's shareholders may not be limited or
12 modified.

13 Sec. 09.17.050. EFFECT OF ~~CONTRIBUTOR~~^{Contributor} FAULT. In an action
14 based on fault seeking to recover damages for injury or death to
15 person or harm to property, ~~contributory~~^{Contributor} fault charge to the
16 claimant diminishes proportionately the amount awarded ^{compensatory}
17 damages for an injury attributable to the claimant's ~~contributory~~^{Contributor}
18 fault, but does not bar recovery.

19 Sec. 09.17.055. COLLATERAL BENEFITS. (a) After the fact finder
20 has rendered an award to a claimant, and after the court has awarded
21 costs and attorney fees, a defendant may introduce evidence of amounts
22 received or to be received by the claimant as compensation for the
23 same injury from collateral sources that do not have a right of subro-
24 gation against the claimant by law or contract.

25 (b) If the defendant elects to introduce evidence under (a) of
26 this section, the claimant may introduce evidence of

27 (1) the amount that the actual attorney fees incurred by
28 the claimant exceed the amount of attorney fees ^{under P.S. 82 /} awarded to the claim-
29 ant; and

1 (2) the amount that the claimant has paid or contributed to
2 secure the right to an insurance benefit introduced by the defendant
3 as evidence.

4 (c) If the total amount of collateral benefits introduced as
5 evidence under (a) of this section exceeds the total amount that the
6 claimant introduced as evidence under (b) of this section, the court
7 shall deduct from the amount awarded the claimant, the amount by which
8 the value of the benefits under (a) of this section exceeds the amount
9 of payments under (b) of this section.

10 (d) Notwithstanding (a) of this section, the defendant may not
11 introduce evidence of

12 (1) benefits that cannot be reduced or offset by federal
13 law;

14 (2) a deceased's life insurance policy; or

15 (3) gratuitous benefits provided to the claimant.

16 Sec. 09.17.060. APPORTIONMENT OF DAMAGES. (a) In all actions
17 involving fault of more than one party to the action, including third-
18 party defendants and persons who have been released under AS 09.17.-
19 070, the court, unless otherwise agreed by all parties, shall instruct
20 the jury to answer special interrogatories or, if there is no jury,
21 shall make findings, indicating

22 (1) the amount of damages each claimant would be entitled
23 to recover if contributory fault is disregarded; and

24 (2) the percentage of the total fault of all of the parties
25 to each claim that is allocated to each claimant, defendant, third-
26 party defendant, and person who has been released from liability under
27 AS 09.17.070.

28 (b) In determining the percentages of fault, the trier of fact
29 shall consider both the nature of the conduct of each party at fault,

and the extent of the causal relation between the conduct and the damages claimed. The trier of fact may determine that two or more persons are to be treated as a single party if their conduct was a cause of the damages claimed and the separate act or omission of each person cannot be distinguished.

(c) The court shall determine the award of damages to each claimant in accordance with the findings, subject to a reduction under AS 09.17.070, and enter judgment against each party liable. The court also shall determine and state in the judgment each party's equitable share of the obligation to each claimant in accordance with the respective percentages of fault.

(d) The court shall enter judgment against each party liable on the basis of joint and several liability, except that a party who is allocated less than 50 percent of the total fault allocated to all the parties may not be jointly liable for more than twice the percentage of fault allocated to that party.

Sec. 09.17.070. EFFECT OF RELEASE. A release, covenant not to sue, or similar agreement entered into by a claimant and a person liable discharges that person from liability to the claimant, but it does not discharge another person liable upon the same claim unless the release, covenant not to sue, or similar agreement provides for discharge. However, the claim of the releasing person against other persons is reduced by the dollar amount of the release, covenant not to sue, or similar agreement.

Sec. 09.17.900. DEFINITION. In this chapter "fault" includes acts or omissions that are in any measure negligent or reckless toward the person or property of the actor or others, or that subject a person to strict tort liability; the term also includes breach of warranty, unreasonable assumption of risk not constituting an

enforceable express consent, misuse of a product for which the defendant otherwise would be liable, and unreasonable failure to avoid an injury or to mitigate damages; legal requirements of causal relation apply both to fault as the basis for liability and to contributory fault.

* Sec. 2. AS 09.10 is amended by adding a new section to read:

Sec. 09.10.075. ACTIONS THAT MUST BE ARBITRATED. A person may not bring an action for damages based on injury to person or property when the amount in controversy is less than \$75,000, exclusive of costs, interest and attorney fees, unless the controversy is first arbitrated under AS 09.43.

* Sec. 3. AS 09.30.065 is amended to read:

Sec. 09.30.065. OFFERS OF JUDGMENT. At any time more than 10 days before the trial begins [ON OR BEFORE THE 60TH DAY FOLLOWING THE FILING OF AN ANSWER IN A CIVIL ACTION, AND ON THE FIFTH DAY FOLLOWING THE DAY DISCOVERY CLOSES AS ORDERED BY THE COURT], either the party making a claim or the party defending against a claim may serve upon the adverse party an offer to allow judgment to be entered in complete satisfaction of the claim for the money or property or to the effect specified in the offer, with cost then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service, and the clerk shall enter judgment. An offer not accepted within 10 days is considered withdrawn and evidence of that offer is not admissible except in a proceeding to determine the form of judgment after verdict. If the judgment finally entered on the claim as to which an offer has been made under this section is not more favorable to the offeree than the offer, the interest awarded under AS 45.45.010(a) and accrued up

1 to the date judgment is entered shall be adjusted as follows:

2 (1) if the offeree is the party making the claim, th
3 interest rate shall be reduced by five [TWO] percent a year;

4 (2) if the offeree is the party defending against th
5 claim, the interest rate shall be increased by five [TWO] percent
6 year.

7 * Sec. 4. AS 09.30.070 is amended by adding a new subsection to read:

8 (b) Except when the court finds that the parties have agree
9 otherwise, prejudgment interest accrues from the day the cause o
10 action accrues.

11 * Sec. 5. AS 09.43.110 is amended to read:

12 Sec. 09.43.110. CONFIRMATION OF AN AWARD. Upon application o
13 a party, the court shall confirm an award unless

14 (1) within the time limits imposed by AS 09.43.120 an
15 09.43.130 grounds are urged for vacating or modifying or correctin
16 the award, in which case the court shall proceed as provided i
17 AS 09.43.120 and 09.43.130; or

18 (2) an appeal is taken under AS 09.43.160(c).

19 * Sec. 6. AS 09.43.160 is amended by adding a new subsection to read:

20 (c) An award made as a result of arbitration required by AS 09.
21 10.075 may be appealed to the proper court. The appeal shall be file
22 within 60 days after notice of an award is made under AS 09.43.080
23 The court shall grant a trial de novo if an appeal is filed under thi
24 subsection.

25 * Sec. 7. AS 09.55.548 is repealed and reenacted to read:

26 Sec. 09.55.548. AWARDS. Damages shall be awarded in accordanc
27 with principles of the common law. The fact finder in a malpractic
28 action shall render any award for damages in accordance with AS 09.17

29 * Sec. 8. AS 09.60.010 is repealed and reenacted to read:

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Sec. 09.60.010. COSTS AND ATTORNEY FEES ALLOWED PREVAILING PARTY. (a) The supreme court shall determine by rule or order the costs, if any, that may be allowed a prevailing party in a civil action. Unless specifically authorized by statute or by agreement between the parties, attorney fees may not be awarded to a party in a civil action.

(b) The court may, upon petition by a party to a civil action, determine the reasonableness of that party's attorney fee agreement. The court shall take into consideration

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the attorney;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the attorney or attorneys performing the services;

(8) whether the fee is fixed or contingent;

(9) whether the fixed or contingent fee agreement was in writing and whether the client was aware of the right to petition the court under this section.

* Sec. 9. AS 09.60 is amended by adding a new section to read:

1 Sec. 09.60.035. COSTS AND ATTORNEY FEES ALLOWED FOR ARBITRATION
2 APPEAL. If a party appeals an award made as a result of arbitration
3 required by AS 09.10.075, and the appellate court increases or de-
4 creases the award by more than 10 percent, the prevailing party on
5 appeal shall also be awarded actual costs and attorney fees incurred
6 as a result of the appeal.

7 * Sec. 10. AS 22.10.020(d) is amended to read:

8 (d) The superior court has jurisdiction in all matters appealed
9 to it (1) from a subordinate court; (2) by a party to an arbitration
10 award under AS 09.43.160(c); [,] or (3) an administrative agency when
11 appeal is provided by law. The hearings on appeal from a final order
12 or judgment of a subordinate court or administrative agency shall be
13 on the record unless the superior court, in its discretion, grants a
14 trial de novo, in whole or in part.

15 * Sec. 11. AS 22.15.030(a) is amended to read:

16 (a) The district court has jurisdiction of civil cases and
17 proceedings as follows:

18 (1) for the recovery of money or damages when the amount
19 claimed exclusive of costs, interest and attorney fees does not exceed
20 \$25,000;

21 (2) for the recovery of specific personal property, when
22 the value of the property claimed and the damages for the detention do
23 not exceed \$25,000;

24 (3) for the recovery of a penalty or forfeiture, whether
25 given by statute or arising out of contract, not exceeding \$25,000;

26 (4) to give judgment without action upon the confession of
27 the defendant for any of the cases specified in this section, except
28 for a penalty or forfeiture imposed by statute;

29 (5) for establishing the fact of death of any person in the

manner prescribed in AS 09.55.020 - 09.55.060;

(6) for the recovery of the possession of premises in the manner provided under AS 09.45.070 - 09.45.160 when the value of the property or of the arrears and damage to the property does not exceed \$25,000;

(7) for the foreclosure of a lien when the amount in controversy does not exceed \$25,000;

(8) for the recovery of money or damages in motor vehicle tort cases when the amount claimed exclusive of costs, interest and attorney fees does not exceed \$25,000;

(9) over civil actions for taking utility service and for damages to or interference with a utility line filed under AS 42.20.-030;

(10) over cases involving injunctive relief for domestic violence under AS 25.35.010 and 25.35.020;

(11) over an appeal by a party to an arbitration award under AS 09.43.160(c) when the amount claimed exclusive of costs, interest, and attorney fees does not exceed \$25,000.

* Sec. 12. AS 09.16 is repealed.

* Sec. 13. AS 09.17.030 and 09.17.060 enacted in sec. 1 of this Act have the effect of amending Alaska Rule of Civil Procedure 49 by requiring the jury to answer the special interrogatories listed in AS 09.17.060 regarding the amount of damages and the percentages of fault to be allocated among the parties and to itemize the verdict regarding economic and noneconomic loss as specified in AS 09.17.030.

* Sec. 14. AS 09.17.060 enacted in sec. 1 of this Act has the effect of amending Alaska Rule of Civil Procedure 52 by requiring the court to make specific findings regarding the amount of damages and the percentages of fault to be allocated among the parties.

1 * Sec. 15. AS 09.17.030 and 09.17.060 enacted in sec. 1 of this Act
2 have the effect of amending Alaska Rule of Civil Procedure 58 by requiring
3 the court to include a specific item in its judgment.

4 * Sec. 16. AS 09.17.040 enacted in sec. 1 of this Act has the effect of
5 amending Alaska Rule of Civil Procedure 11 by requiring verification of
6 claims, answers, counterclaims, and cross-claims.

7 * Sec. 17. AS 09.30.065 as amended by sec. 3 of this Act has the effect
8 of amending Alaska Rule of Civil Procedure 68 by providing that prejudgment
9 interest accrues from the day the cause of action accrues.

10 * Sec. 18. AS 09.60.010 as amended by sec. 8 of this Act has the effect
11 of amending Alaska Rule of Civil Procedure 82 by prohibiting the award of
12 attorney fees, unless allowed by statute or by agreement of the parties.

13 * Sec. 19. APPLICABILITY. Sections 1 - 12 of this Act apply to all
14 causes of action accruing on or after the effective date of this Act.

15 * Sec. 20. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

1 no will.

2 (d) If the court finds that the judgment debtor has exhibited a
3 continuing pattern of failing to make payments required under (c) of
4 this section, the court shall, in addition to the required periodic
5 payments, order the judgment debtor to pay the judgment creditor any
6 damages caused by the failure to make periodic payments, including
7 costs and attorney fees.

8 Sec. 09.17.040. VERIFICATION OF CIVIL CLAIMS. The party or the
9 attorney of the party shall sign and verify each complaint, answer,
10 cross-claim, and counterclaim that the party files. The verification
11 must include a statement that the person signing the pleading believes
12 the statements made in the pleading are true. If the court finds that
13 a statement made in the complaint, answer, cross-claim, or counter-
14 claim was knowingly untrue, and upon motion of a party the person
15 signing the pleading shall be compelled to show cause why the person
16 signing the pleading should not be held in contempt of court.

17 Sec. 09.17.045. LIMITED LIABILITY OF CERTAIN DIRECTORS, OFFICERS
18 AND SUPERINTENDENTS. (a) Unless the act or omission constituted
19 gross negligence, a person may not recover damages for an act or
20 omission to act, in the course and scope of official duties, from the
21 following:

22 (1) a member of the board of directors or an officer of a
23 nonprofit corporation;

24 *Ordering language could*
delete K&H (2) a member of the board of directors of a public or
25 nonprofit hospital or a community-based advisory board of a hospital;

26 *Av Gross implies this* (3) a member of a school board or superintendent of a
27 school district;

28 (4) an elected or appointed official of a political subdivi-
29 sion of the state.


JOHN SUND, REPRESENTATIVE

*2505 2nd Avenue
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(907) 225-5552*

*While in Juneau
P. O. Box V
Juneau, Alaska 99811
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May 7, 1986

To: House Judiciary Members

From: Rep. John Sund 

Re: SB377

Attached please find a side-by-side comparison of the House and Senate versions of Senate Bill 377, dealing with tort reform.

COMPARISON OF SB 377 - TORT REFORM

(Provided by Sen. Eliason's staff

SENATE JUDICIARY	SENATE LABOR & COMMERCE	SENATE FINANCE (Version #2)
<p><u>Findings & Purpose</u> - reforms are necessary to increase availability and affordability of insurance</p> <p><u>Actions That Must Be Arbitrated</u> - a case less than \$75,000 for injury to person or property must be arbitrated first</p> <p><u>Noneconomic Damages</u> - can recover non-economic damages; no limit is set</p> <p><u>Punitive Damages</u> - may not be awarded unless supported by clear and convincing evidence. Fifty percent of punitive damages shall be awarded to the State; attorney fees based on total award</p> <p><u>Damages Resulting From Intoxication or Commission of a Crime</u> - a person may not recover damages for personal injuries if the person was intoxicated or committing a crime when the incident occurred and the intoxicating liquor contributed more than 50% to the person's injuries</p> <p><u>Itemized Verdicts</u> - verdict shall itemize economic and noneconomic loss; economic loss shall include past and future medical costs, loss wages, and others; shall outline the costs before and after verdict</p> <p><u>Periodic Payments</u> - no reference</p> <p><u>Verification of Civil Claims</u> - person filing a claim, complaint, answer, etc. shall verify in writing the information is correct</p>	<p><u>Findings & Purpose</u> - no reference</p> <p><u>Actions That Must Be Arbitrated</u> - a case less than \$100,000 for personal injury only must be arbitrated first</p> <p><u>Noneconomic Damages</u> - can recover non-economic damages; may not exceed \$250,000 for each claim based on a separate incident</p> <p><u>Punitive Damages</u> - no reference</p> <p><u>Damages Resulting From Intoxication or Commission of a Crime</u> - no reference</p> <p><u>Itemized Verdicts</u> - identical to Senate Judiciary</p> <p><u>Periodic Payments</u> - at the request of a judgment creditor, damages shall be paid in periodic payments if award is over \$50,000</p> <p><u>Verification of Civil Claims</u> - no reference</p>	<p><u>Findings & Purpose</u> - identical to Senate Judiciary</p> <p><u>Actions That Must Be Arbitrated</u> - a case less than \$25,000 for injury to a person or property must be arbitrated first</p> <p><u>Noneconomic Damages</u> - identical to Senate Labor and Commerce</p> <p><u>Punitive Damages</u> - must be proven that the cause of injury was caused by an individual committing a crime or deliberate or malicious misconduct; award goes to the plaintiff</p> <p><u>Damages Resulting From Intoxication or Commission of a Crime</u> - similar to Senate Judiciary</p> <p><u>Itemized Verdicts</u> - verdict shall itemize past economic loss, past noneconomic loss, future economic loss, future noneconomic loss and punitive damages</p> <p><u>Periodic Payments</u> - at the request of either party, damages shall be paid in periodic payments if award is over \$100,000</p> <p><u>Verification of Civil Claims</u> - similar to Senate Judiciary</p>

COMPARISON OF SB 377 - TORT REFORM - con't.

SENATE JUDICIARY	SENATE LABOR & COMMERCE	SENATE FINANCE (Version #2)
<p><u>Limited Liability of Certain Directors</u> - no reference</p>	<p><u>Limited Liability of Certain Directors</u> - no reference</p>	<p><u>Limited Liability of Certain Directors</u> - a board member is not liable for an act committed in the course of official duties unless the act constitutes gross negligence</p>
<p><u>Effect of Contributory Fault</u> - contributory fault diminishes recovery, but does not bar compensation</p>	<p><u>Effect of Contributory Fault</u> - same as Senate Judiciary</p>	<p><u>Effect of Contributory Fault</u> - same as Senate Judiciary</p>
<p><u>Collateral Benefits</u> - collateral sources may be deducted from an award if the collateral exceeds the actual attorney fees incurred which exceed the fees awarded</p>	<p><u>Collateral Benefits</u> - no reference</p>	<p><u>Collateral Benefits</u> - claimant can only recover damages that exceed amounts received from collateral sources</p>
<p><u>Apportionment of Damages</u> - requires the jury or court to apportion damages between each party. Each party is assigned a percentage of fault, and damages are awarded based on the percentages. Judgment is based on joint and several liability. A party less than 50% at fault pays not more than twice the percentage of fault.</p>	<p><u>Apportionment of Damages</u> - requires the jury or court to apportion damages between each party. Each party is assigned a percentage of fault, and damages are awarded based on the percentages. Judgment will be made on the basis of several liability.</p>	<p><u>Apportionment of Damages</u> - identical to Senate Labor and Commerce</p>
<p><u>Effect of Release</u> - same as Senate Labor and Commerce, except the claim is reduced by the dollar amount of the release</p>	<p><u>Effect of Release</u> - if a person settles a claim, the settlement does not release anyone else. The claim is reduced by the amount of the released person's share of obligation</p>	<p><u>Effect of Release</u> - if a person settles a claim, the settlement does not release anyone else.</p>
<p><u>Contingent Fee Agreements</u> - no reference</p>	<p><u>Contingent Fee Agreements</u> - no reference</p>	<p><u>Contingent Fee Agreements</u> - an attorney may not receive a fee in excess of 25% of the amount recovered</p>
<p><u>Definition</u> - defines fault</p>	<p><u>Definition</u> - defines fault and future damages</p>	<p><u>Definition</u> - defines fault</p>

COMPARISON OF SB 377 - TORT REFORM - con't

SENATE JUDICIARY	SENATE LABOR & COMMERCE	SENATE FINANCE (Version #2)
<p><u>Offers of Judgment</u> - either party may make an offer 30 days before the trial. If the offer is less favorable than the judgment, interest rate is reduced 5% if the claimant offered and increased 5% if the defendant offered.</p> <p><u>Interest on Judgment</u> - Interest accrues from the day the cause of action accrues</p> <p><u>Confirmation of an Award</u> - an award made under arbitration may be appealed to the proper court</p> <p><u>Awards</u> - damages in malpractice action shall be awarded with principles of the common law</p> <p><u>Attorney Fees</u> - court may, if petitioned by either party, determine the reasonableness of the attorney fees</p> <p><u>Attorney Fees Allowed for Arbitration</u> - a party appeals an arbitrated award and if the court either increases or decreases the award by more than 10%, the prevailing party shall be awarded attorney fees</p> <p><u>Amends</u> - Rule 49, Rule 52, Rule 58, Rule 11, Rule 68</p> <p><u>Repeals</u> - AS 09.16.010, 09.16.020, 09.16.030, 09.16.040, 09.16.050, 09.16.060</p> <p><u>Arbitration Appeals</u> - Superior Court will hear arbitration appeals over \$25,000</p>	<p><u>Offers of Judgment</u> - if a party defending offers a settlement that is more favorable than the judgment finally entered, the claim shall bear no interest from the date of offer to the date of settlement.</p> <p><u>Interest on Judgment</u> - no reference</p> <p><u>Confirmation of an Award</u> - identical to Senate Judiciary</p> <p><u>Awards</u> - no reference</p> <p><u>Attorney Fees</u> - attorney fees cannot be awarded unless the court finds malice, bad faith or reckless disregard of the rights of another</p> <p><u>Attorney Fees Allowed for Arbitration</u> - no reference</p> <p><u>Amends</u> - Rule 49, Rule 52, Rule 58, Rule 68, Rule 82</p> <p><u>Repeals</u> - Identical to Senate Judiciary</p> <p><u>Arbitration Appeals</u> - will be heard in Superior Court</p>	<p><u>Offers of Judgment</u> - either party may make an offer 10 days before the trial begins. If the offer is less favorable than the judgment, interest rate is reduced 2% if claimant offered and increased by 2% if the defendant offered.</p> <p><u>Interest on Judgment</u> - the rate of interest of judgments is equal to the 12th Federal Reserve district discount rate. Interest accrues from the day process is served on the defendant.</p> <p><u>Confirmation of an Award</u> - identical to Senate Judiciary</p> <p><u>Awards</u> - identical to Senate Judiciary</p> <p><u>Attorney Fees</u> - attorney fees may not be awarded in a civil action</p> <p><u>Attorney Fees Allowed for Arbitration</u> - identical to Senate Judiciary</p> <p><u>Amends</u> - Rule 49, Rule 52, Rule 58, Rule 68, Rule 82, Rule 11</p> <p><u>Repeals</u> - Identical to Senate Judiciary</p> <p><u>Arbitration Appeals</u> - will be heard in District Court</p>

COMPARISON OF SB 377 - TORT REFORM

SENATE JUDICIARY	SENATE LABOR & COMMERCE	SENATE FINANCE (Version #2)
<p><u>Legislative Intent</u> - no reference</p> <p><u>Effective Date</u> - immediate effective date</p>	<p><u>Legislative Intent</u> - the Division of Insurance is to monitor premiums and report to the legislature every March starting March 1, 1987 for three years</p> <p><u>Effective Date</u> - immediate effective date</p>	<p><u>Legislative Intent</u> - identical to Senate Labor and Commerce</p> <p><u>Effective Date</u> - Except for AS 09.17.080, this Act takes effective immediately. AS 09.17.080 only takes effect if sec.10 does not pass by 2/3 majority vote.</p>