



February 25, 1999

# HOUSE BILL No. 1456

DIGEST OF HB1456 (Updated February 23, 1999 10:51 am - DI 69)

**Citations Affected:** IC 34-51.

**Synopsis:** Jury instructions concerning fault and damages. Provides that in an action based on comparative fault, the jury shall be informed of any immunity defense that is available to a nonparty. Provides that a jury in a case involving punitive damages must be advised of the: (1) limitation on the amount of punitive damages that may be awarded; (2) ability of the court to reduce the amount of a punitive damage award; and (3) requirements concerning allocation of money received in payment in a punitive damage award.

**Effective:** July 1, 1999.

**Moses**

January 19, 1999, read first time and referred to Committee on Judiciary.  
February 24, 1999, reported — Do Pass.

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HB 1456—LS 6892/DI 69+



February 25, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1456

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 34-51-2-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) This section  
3 applies to an action based on fault that is:  
4 (1) brought against one (1) defendant or two (2) or more  
5 defendants who may be treated as a single party; and  
6 (2) tried to a jury.  
7 (b) The court, unless all the parties agree otherwise, shall instruct  
8 the jury to determine its verdict in the following manner:  
9 (1) The jury shall determine the percentage of fault of the  
10 claimant, of the defendant, and of any person who is a nonparty.  
11 The jury ~~may not shall~~ be informed of any immunity defense that  
12 is available to a nonparty. In assessing percentage of fault, the  
13 jury shall consider the fault of all persons who caused or  
14 contributed to cause the alleged injury, death, or damage to  
15 property, tangible or intangible, regardless of whether the person  
16 was or could have been named as a party. The percentage of fault  
17 of parties to the action may total less than one hundred percent

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1 (100%) if the jury finds that fault contributing to cause the  
 2 claimant's loss has also come from a nonparty or nonparties.

3 (2) If the percentage of fault of the claimant is greater than fifty  
 4 percent (50%) of the total fault involved in the incident which  
 5 caused the claimant's death, injury, or property damage, the jury  
 6 shall return a verdict for the defendant and no further deliberation  
 7 of the jury is required.

8 (3) If the percentage of fault of the claimant is not greater than  
 9 fifty percent (50%) of the total fault, the jury then shall determine  
 10 the total amount of damages the claimant would be entitled to  
 11 recover if contributory fault were disregarded.

12 (4) The jury next shall multiply the percentage of fault of the  
 13 defendant by the amount of damages determined under  
 14 subdivision (3) and shall then enter a verdict for the claimant in  
 15 the amount of the product of that multiplication.

16 SECTION 2. IC 34-51-2-8 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) This section  
 18 applies to an action based on fault that:

19 (1) is brought against two (2) or more defendants; and

20 (2) is tried to a jury.

21 (b) The court, unless all the parties agree otherwise, shall instruct  
 22 the jury to determine its verdict in the following manner:

23 (1) The jury shall determine the percentage of fault of the  
 24 claimant, of the defendants, and of any person who is a nonparty.  
 25 The jury ~~may not~~ shall be informed of any immunity defense that  
 26 might be available to a nonparty. In assessing percentage of fault,  
 27 the jury shall consider the fault of all persons who caused or  
 28 contributed to cause the alleged injury, death, or damage to  
 29 property, tangible or intangible, regardless of whether the person  
 30 was or could have been named as a party. The percentage of fault  
 31 of parties to the action may total less than one hundred percent  
 32 (100%) if the jury finds that fault contributing to cause the  
 33 claimant's loss has also come from a nonparty or nonparties.

34 (2) If the percentage of fault of the claimant is greater than fifty  
 35 percent (50%) of the total fault involved in the incident which  
 36 caused the claimant's death, injury, or property damage, the jury  
 37 shall return a verdict for the defendants and no further  
 38 deliberation of the jury is required.

39 (3) If the percentage of fault of the claimant is not greater than  
 40 fifty percent (50%) of the total fault, the jury shall then determine  
 41 the total amount of damages the claimant would be entitled to  
 42 recover if contributory fault were disregarded.

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1 (4) The jury next shall multiply the percentage of fault of each  
 2 defendant by the amount of damages determined under  
 3 subdivision (3) and shall enter a verdict against each defendant  
 4 (and such other defendants as are liable with the defendant by  
 5 reason of their relationship to a defendant) in the amount of the  
 6 product of the multiplication of each defendant's percentage of  
 7 fault times the amount of damages as determined under  
 8 subdivision (3).

9 SECTION 3. IC 34-51-3-3 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A jury in a case  
 11 subject to this chapter ~~may not~~ **shall** be advised of

12 ~~(1) the limitation on the amount of a punitive damage award~~  
 13 ~~under section 4 of this chapter; or~~

14 ~~(2) the requirement under section 6 of this chapter concerning~~  
 15 ~~allocation of money received in payment of a punitive damage~~  
 16 ~~award.~~

17 **the provisions of sections 4, 5, and 6 of this chapter.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1456, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

VILLALPANDO, Chair

Committee Vote: yeas 6, nays 5.

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