



H 3430: “Tort reform” or “Liquor liability plus” SECTION Summary

SECTION 1: Modified Joint & Several Liability

With certain exceptions, allows fault to be apportioned to non-named tortfeasors, with modified joint & several liability (50%).

- If any defendant is found to be greater than fifty percent responsible for the total fault, joint and several liability applies
- Damages will be apportioned among the plaintiff, defendant(s) and tortfeasors who proximately caused the damages, with certain exceptions
 - The legislation replaces the word “defendant” with “tortfeasors” in several places, which will no longer limit the apportionment of fault to named defendants
- Preserves the empty chair defense
- Setoff may be used in lieu of adding a nonparty to the verdict form
- Joint and several liability applies to defendants whose conduct is determined to be wilful, wanton, reckless, or intentional
- Defendants may add additional tortfeasors for purposes of allocating fault
 - Defendants bear the burden of proof for adding an additional tortfeasor
 - Disclosure of the additional tortfeasor must be provided within 180 days of the commencement of the action
- Exceptions (adding additional tortfeasors to the verdict form are not allowed in the following):
 - Parties who are immune from liability
 - Wilful, wanton, reckless, or intentional actions of the non-named party
 - Vicarious liability
 - Strict liability
 - Asbestos cases
- For incidents involving DUIs, a licensee cannot be held liable for more than fifty percent of the plaintiff’s damages

SECTIONS 2-5: Liquor Liability Laws and Server Training Requirements

- Provides that licensees who sell liquor by the drink may not “knowingly” sell to intoxicated persons
- Creates mandatory server training
- Establishes penalties for violations
- “Loser pays” attorney fees in dram shop cases
- Requires alcohol server training, and creates administrative penalties and fines for violations
- Reduces the current mandatory minimum insurance requirements for liquor liability to \$500,000
 - Non-profits must carry \$300,000

SECTIONS 6&7: Insurance Reporting Requirements & Captive Insurance

- Requires the SC Department of Insurance to collect information on liquor liability insurance and report annually
- Allows captive insurance companies to offer liquor liability insurance

SECTION 8: Risk Mitigation Program

- Allows licensees to reduce the mandatory minimum insurance requirement provided certain criteria are met
- Requires a per occurrence limit that is at least 50% of the aggregate limit
- Requires insurers to offer “reasonable discounts” if the licensee complies with the mitigation standards
- 501(C)(3) non-profits are only required to carry \$500,000 in aggregate limits

SECTION 9: DUI Drivers

- Tortfeasors charged with driving under the influence shall appear on the verdict form for purposes of apportioning fault.
- If a verdict is rendered against a licensee and another tortfeasor who is charged with a DUI, the licensee is joint and severally responsible for 50% of the plaintiff's actual damages

Effective Date: January 1, 2026