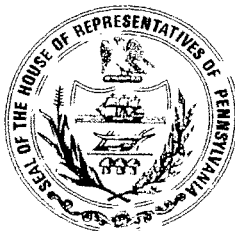


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House of Representatives  
Commonwealth of Pennsylvania  
Harrisburg

COMMITTEES

GAMING OVERSIGHT - CHAIRMAN  
INSURANCE

# MEMORANDUM

**TO:** All House Members  
**FROM:** Rep. Curt Schroder  
**RE:** Proposed Legislation – Reintroduction of the Fair Share Act  
Previous HB 525  
**DATE:** January 10, 2011

I am planning to reintroduce the Fair Share Act, to reform the doctrine of joint and several liability. This proposed legislation is essentially the same legislation that was signed into law by Governor Mark Schweiker in 2002 and, after being struck down on a procedural court challenge, was passed again and vetoed by Governor Rendell in 2005. The Fair Share Act was introduced again in 2009 – 2010 as HB 525.

Under the current scheme of joint and several liability, a defendant with only a minimal amount of liability can be held responsible for 100% of a verdict. This results in some defendants being sued for no other reason than their “deep pockets.” It is simply unjust to require a defendant to pay 100% of the damages when they are found to be less than 60% responsible for the harm.

The Fair Share Act amends Section 7102 of Title 42 to eliminate joint liability for defendants in civil cases found to be less than 60% liable and to implement a system of comparative responsibility in which a defendant is responsible for paying only its fair share of the damages. Full joint and several liability would still apply in the case of these exceptions:

- an intentional misrepresentation;
- an intentional tort
- an action related to the release or threatened release of a hazardous substance under the Hazardous Sites Cleanup Act; or
- an action brought under Section 497 of the Liquor Code.

This bill has been supported by the Pennsylvania Chamber of Business and Industry; National Federation of Independent Business; the Hospital and Health System Association of Pennsylvania; the Insurance Federation; the Greater Philadelphia Chamber of Commerce; the Allegheny Conference and Greater Pittsburgh Chamber of Commerce; the Insurance Agents and Brokers of Pennsylvania; and the Pennsylvania Medical Society.

Governor Elect Corbett has made passage of this legislation one of his highest priorities. It is time that we enact this needed reform to our legal system once and for all.

If you would like to co-sponsor this bill, please contact Carolyn May at [cmay@pahousegop.com](mailto:cmay@pahousegop.com), or Heather Epler at [helper@pahousegop.com](mailto:helper@pahousegop.com)