

QA:15-97

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:15-97

(Wrongful death cases-- certain-- eliminate "collateral source")

LAWS OF: 1987

CHAPTER: 326

Bill No: S2708

Sponsor(s): Orechio

Date Introduced: October 27, 1986

Committee: Assembly: Insurance

Senate: Judiciary

Amended during passage: Yes

Amendments during passage denoted by asterisks.

Date of Passage: Assembly: November 30, 1987

Senate: December 4, 1986

Date of Approval: December 18, 1987

Following statements are attached if available:

Sponsor statement: Yes Attached: Assembly amendments; adopted 11-23-87 (with statement)

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey. Legislature. Assembly. Insurance Committee 159 1986 Public hearing on insurance problems being experienced by public entitics, held 2-18-86, 2-25-86 and 2-28-86, (see especially vol I-- pp. 57-58) vol III-- p. 69

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974.90 New Jersey. Legislature. Senate. Judiciary and Labor, Industry and Profession  
I59 Committee.  
1986c Public hearing, held 7-28-86 and 7-30-86, Jersey City and Elizabeth,  
1986

974.90 New Jersey. Legislature. Senate. Labor, Industry and Professions Committee  
I59 Public hearing, held 8-26-86. Trenton, 1986.  
1986e (see pp 95x-96x)

See also-- attached:

Garrity, Francis X., "Time for elimination of the 'Collateral Source' rule," 5 NJ Defense Association Newsletter 2 (March, 1986)

Newspaper clippings-- attached:

"Comparative negligence . . . goes to Assembly, 9-2-87 Star Ledger  
"Kean enacts liability relief for local governments," 12-19-87 Star Ledger  
"New liability laws make suits more difficult," 12-21-87 Philadelphia Inquirer

CHAPTER 326 LAWS OF N. J. 1987  
APPROVED 12-18-87

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 2708

STATE OF NEW JERSEY

INTRODUCED OCTOBER 27, 1986

By Senator ORECHIO

Referred to Committee on Judiciary

AN ACT concerning the award of damages in personal injury and wrongful death actions in certain cases and supplementing Title 2A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. In any civil action brought for personal injury or death,  
2 except actions brought \***[for injuries which result from the use of**  
3 **an automobile which is required to be insured]**\* pursuant to the  
4 provisions of P. L. 1972, c. 70 (C. 39:6A-1 et seq.), if a plaintiff  
5 receives or is entitled to receive benefits for the injuries allegedly  
6 incurred from any other source other than a joint tortfeasor, the  
7 benefits, other than workers' compensation benefits or the pro-  
8 ceeds from a life insurance policy, shall be disclosed to the  
9 court\*\*\***[\*\***, *jury arbitrators, or other trier of fact, including, but*  
10 *not limited to, medical and hospital insurance benefits, prepaid*  
11 *health care benefits, social security benefits, railroad retirement*  
12 *benefits, pension benefits, or wage continuation or disability bene-*  
13 *fits\*\*]\*\*\* and the amount thereof which duplicates any benefit  
14 contained in the award shall be deducted from any award recovered  
15 by the plaintiff, less any premium paid to an insurer directly by  
16 the plaintiff or by any member of the plaintiff's family on behalf  
17 of the plaintiff for the policy period during which the benefits are  
18 payable. Any party to the action shall be permitted to introduce  
19 evidence regarding any of the matters described in this act.*

1 2. This act shall take effect immediately and shall apply to all  
2 causes of actions arising on or after that date.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

\*—Senate committee amendment adopted October 30, 1986.

\*\*—Assembly committee amendment adopted September 10, 1987.

\*\*\*—Assembly amendment adopted November 23, 1987.

TORT LIABILITY AND MALPRACTICE

Eliminates the "collateral source" rule in certain personal injury and wrongful death cases.

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AN ACT concerning the award of damages in personal injury and wrongful death actions in certain cases and supplementing Title 2A of the New Jersey Statutes.

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9 and the amount thereof which duplicates any benefit contained in  
10 the award shall be deducted from any award recovered by the  
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## TORT LIABILITY AND MALPRACTICE

Eliminates the "collateral source" rule in certain personal injury and wrongful death cases.

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Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendment adopted October 30, 1986.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2708

STATE OF NEW JERSEY

DATED: OCTOBER 30, 1986

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2708.

The traditional "collateral source rule" holds that damages awarded in a suit for personal injury or wrongful death should not be reduced because the insured claimant has received insurance proceeds or other compensation covering the same injuries. In effect a claimant is paid twice for the same injury. This bill would eliminate the collateral source rule and require that awards for personal injury be reduced by any compensating benefits which the plaintiff has received from other sources.

Under this bill, workers' compensation benefits or the proceeds from life insurance policies would not be deductible from jury awards.

The bill would also permit premiums paid for or on behalf of the plaintiff to reduce the amount of any offset from other sources.

The purpose of the amendments adopted by the committee is to clarify that the bill's provisions are only inapplicable to actions brought pursuant to New Jersey's "no fault" statute. The original language of the bill might have been construed as making the bill inapplicable in other cases such as product liability actions where an automobile was involved.

**SENATE, No. 2708**  

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**STATE OF NEW JERSEY**  

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INTRODUCED OCTOBER 27, 1986

By Senator ORECHIO

Referred to Committee on Judiciary

AN ACT concerning the award of damages in personal injury and wrongful death actions in certain cases and supplementing Title 2A of the New Jersey Statutes.

1    **BE IT ENACTED** *by the Senate and General Assembly of the State*  
2    *of New Jersey:*

1    1. In any civil action brought for personal injury or death,  
2    except actions brought for injuries which result from the use of an  
3    automobile which is required to be insured pursuant to the pro-  
4    visions of P. L. 1972, c. 70 (C. 39:6A-1 et seq.), if a plaintiff  
5    receives or is entitled to receive benefits for the injuries allegedly  
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7    benefits, other than workers' compensation benefits or the pro-  
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11   plaintiff, less any premium paid to an insurer directly by the  
12   plaintiff or by any member of the plaintiff's family on behalf of the  
13   plaintiff for the policy period during which the benefits are payable.  
14   Any party to the action shall be permitted to introduce evidence  
15   regarding any of the matters described in this act.

1    2. This act shall take effect immediately and shall apply to all  
2    causes of actions arising on or after that date.

*Sponsor :*

## STATEMENT

The traditional "collateral source rule" holds that damages awarded in a suit for personal injury or wrongful death should not be reduced because the insured claimant has received insurance proceeds or other compensation covering the same injuries.

In effect a claimant is paid twice for the same injury. This bill would eliminate the collateral source rule and require that awards for personal injury be reduced by any compensating benefits which the plaintiff has received from other sources.

Under this bill, workers' compensation benefits or the proceeds from life insurance policies would not be deductible from jury awards. The bill would also permit premiums paid for or on behalf of the plaintiff to reduce the amount of any offset from other sources.

The bill is not applicable to cases where the injuries resulted from the operation of an automobile.

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## TORT LIABILITY AND MALPRACTICE

Eliminates the "collateral source" rule in certain personal injury and wrongful death cases.

~~§ 2107~~



ASSEMBLY INSURANCE COMMITTEE

STATEMENT TO

**SENATE, No. 2708**

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 1, 1987

This bill eliminates the collateral source rule in civil actions brought for personal injury or death. It does not apply to actions brought for injuries which result from the use of an automobile to which the no-fault law applies (P. L. 1972, c. 70; C. 39:6A-1 et seq.). The bill provides that in these civil actions any benefits received by a plaintiff from any other source, except for workers' compensation benefits or proceeds from a life insurance policy, would be required to be disclosed to the court and the amount of those benefits which duplicate any benefit contained in the award would be required to be deducted from the award, less any premiums paid by the insured for the collateral benefits which are offset against the award. The Assembly Insurance Committee has amended the bill to enumerate some of the collateral sources to be offset against the award.

This bill is intended to prohibit duplicate recovery by plaintiffs. Thus, if a plaintiff received disability benefits, health insurance benefits, unemployment compensation, or other benefits after having sustained an injury, these benefits would be required to be deducted from any award. Generally, awards in civil suits are intended to compensate injured persons for such things as loss of wages, medical costs, and other costs which are attendant to the injury. To the extent that the injured party is being compensated for the same things from other sources there is double recovery on the part of the plaintiff. This bill, by requiring that the benefits received from other sources be offset against the award, is intended to effect cost containment.

1 2. This act shall take effect immediately and shall apply to all  
2 causes of actions arising on or after that date.

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TORT LIABILITY AND MALPRACTICE

Eliminates the "collateral source" rule in certain personal injury  
and wrongful death cases.

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[ASSEMBLY REPRINT]

**SENATE, No. 2708**

[OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

INTRODUCED OCTOBER 27, 1986

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4 provisions of P. L. 1972, c. 70 (C. 39:6A-1 et seq.), if a plaintiff  
5 receives or is entitled to receive benefits for the injuries allegedly  
6 incurred from any other source other than a joint tortfeasor, the  
7 benefits, other than workers' compensation benefits or the pro-  
8 ceeds from a life insurance policy, shall be disclosed to the court\*\*,  
9-10 *jury, arbitrators, or other trier of fact, including, but not limited*  
11 *to, medical and hospital insurance benefits, prepaid health care*  
12 *benefits, social security benefits, railroad retirement benefits, pen-*  
13 *sion benefits, or wage continuation or disability benefits\*\* and the*  
14 amount thereof which duplicates any benefit contained in the award  
15 shall be deducted from any award recovered by the plaintiff, less  
16 any premium paid to an insurer directly by the plaintiff or by any  
17 member of the plaintiff's family on behalf of the plaintiff for the  
18 policy period during which the benefits are payable. Any party to  
19 the action shall be permitted to introduce evidence regarding any  
20 of the matters described in this act.

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Assembly Amendments  
(Proposed by Assemblyman Martin)

to

Senate Bill No. 2708 (OCR)(AR)  
(Sponsored by Senator Orechio)

NOV 23 1987

Amend:

Page Sec. Line

1	1	8-13	On line 8 after "court" omit ",";
			Omit lines 9 through 12 in entirety;
			On line 13 omit "sion benefits, or wage continuation or disability benefits"

23 NOV 87 2:15

Statement

This amendment provides that the disclosure of collateral sources would only be made to the court and not to the jury, arbitrators or other trier of fact.



# OFFICE OF THE GOVERNOR

## NEWS RELEASE

**CN-001**

**Contact:** JOHN SAMERJAN  
609-292-8956 OR 292-6000 EXT. 207

**TRENTON, N.J. 08625**

**Release:** FRI., DEC. 18, 1987

Governor Thomas H. Kean today signed three bills reforming the State's liability insurance laws by protecting municipalities from paying an unfair share of damages in a liability suit, modifying the so-called "deep pockets" rule in civil litigation which allowed persons to be forced to pay a much larger share of damages than they were responsible for, and reducing the possibility of "double recoveries" in civil actions.

S-375/A-4467, sponsored by Senator William Gormley, R-Atlantic and Assemblyman Ralph Loveys, R-Morris, eliminates the applicability of joint and several liability to public entities, voluntary associations such as the New Jersey State Interscholastic Athletic Association, and any athletic conference operating under the jurisdiction of such associations.

Under current law, a public entity could be responsible for 100 percent of the damages in a liability action even if that public entity were held only one percent negligent.

This legislation specifies that a public entity or employee will not have to pay a percentage of an award greater than the percentage of negligence attributable to them.

Governor Kean, citing the skyrocketing costs of liability insurance for municipalities, called for this legislation in his Annual Message in January.

S-2703, sponsored by Senator Raymond Lesniak, D-Union, modifies the joint and several liability doctrine in civil litigation. Under the so-called deep pockets rule a defendant now can be required to pay 100 percent of the judgement even where their percentage of fault is far less.

The major change in this legislation is when the defendant is found to be 20 or less percent negligent the plaintiff may recover only the percentage of damages directly attributable to the defendant's negligence.

S-2708, sponsored by Senator Carmen Orechio, D-Essex and Assemblyman Jack Rafferty, R-Mercer, reduces the possibility of a "double recovery" in a liability award by subtracting from that award amounts compensated by collateral sources. Collateral sources include such things as health insurance but not life insurance or workers compensation benefits.

All three bills are effective immediately.

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