

2A:15-5.1

November 9, 1973

LEGISLATIVE HISTORY OF R.S.2A:15-5.1
(Comparative Negligence)

L.1973 - chap.146 - A665, 2d OCR - Raymond et al.
July 6, 1973 - Amended. Passed Assembly.
Nov.20, 1973 - Amended, Senate.
March 29, 1973 - Amendment of Nov. 20 rescinded.
April 5 - Amended. Passed Senate.
April 30 - Senate Amendment passed Assembly.
May 24 - Approved.

Bill with Statement, Assembly ^{Comm.} Amendment, OCR, Rescinded ^{SEN.}
Amendment Nov.20; Senate Reprint, Senate Amendment of
MAY 29, enclosed. ALSO 2d OCR.

Governor's Statement on signing A665 is enclosed.

No hearings were held.

Earlier bills on same subject.

1966 - A606, A677
1967 - A413, A477
1968 - A532
1969 - A488 Passed Assembly, died in Senate.
S573
1970 - S244
1972/73 - A68, A1023, S22, S2153

Reports, Articles etc.

974.90 New Jersey. Automobile Insurance Study Commission.
A939 Reparation reform for New Jersey motorists.
1971a 1971

1957 New Jersey State Bar Association Committee on
Comparative Negligence. Report 80NJLJ 274
May 30, 1957

1967 New Jersey Supreme Court Committee on Comparative
Negligence. Report 1967. 90 NJLJ 297 5/11/67
also in New Jersey Judicial Conference Pro-
ceedings 1967.

1957 Harkavy, A.I.
Comparative Negligence--reflections of a skeptic
80 NJLJ 97 Feb.28, 1957

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Integration Approved, Comparative Negligence
rejected (State Bar) 80 NJLJ 253 May 23, 1957

Farrell, J.W.

Letter to the editor criticizing report of
State Bar Committee on Comparative Negligence
80 NJLJ 324 June 27, 1957

1966 Branda, Raymond
Letter to editor urging adoption of rule of
Comparative Negligence 89 NJLJ 164 Mar. 17, 1966

1966 Yasko, Jerome L.
Letter to editor announcing result of survey
of membership of New Jersey Association of
Trial Attorneys on question of Comparative
Negligence. 89 NJLJ 612 September 22, 1966

1967 Negligence Claims Arbitration (Editorial)
90 NJLJ 100 February 16, 1967

Modifying Fault system discussed at Bar meeting
(in California) 90 NJLJ 700 October 26, 1967

1968 Young lawyers propose several changes in Civil
litigation 91 NJLJ 329 May 23, 1968

1969 State Bar tables action on Comparative Negligence
bill 92 NJLJ 333 May 22 1969

1969 Comparative Negligence plans aired 92 NJLJ 777
November 27, 1969

1970 Greenlish, Theodore W. and Bubb, M.S.
Comparative Negligence: an opportunity for
New Jersey, Comments on various forms and
possible effects of such statute in New Jersey
1 Seton Hall Law Review 87 Spring 1970

1971

Chazen, Bernard

An equitable concept of Comparative Negligence

94 NJLJ 785 August 26, 1971

HP/EH

ASSEMBLY, No. 665

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 7, 1972

By Assemblymen RAYMOND, DICKEY, DEVERIN, Assemblywoman KLEIN, Assemblymen LITTELL, BLACK, EWING, FORAN, MABIE, WILKIE, VEIT, SPIZZIRI, GEWERTZ, BORNHEIMER, FROUDE, COLASURDO and PERSKIE

Referred to Committee on Insurance

AN ACT providing for comparative negligence and the method for applying such comparative negligence by judges and juries.

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

1 1. Contributory negligence shall not bar recovery in an action by
2 any person or his legal representative to recover damages for
3 negligence resulting in death or injury to person or property, if
4 such negligence was not greater than the negligence of the person
5 against whom recovery is sought, but any damages sustained shall
6 be diminished by the percentage sustained of negligence attribu-
7 table to the person recovering.

1 2. In all negligence actions in which the question of liability is in
2 dispute, the judge or jury as the trier of fact shall make the follow-
3 ing as findings of fact:

4 a. The amount of damages which would be recoverable by the
5 injured party regardless of any consideration of negligence, that is,
6 the full value of the injured party's damages;

7 b. The extent, in the form of a percentage, of each parties'
8 negligence. The percentage of negligence of each party shall be
9 based on 100% and the total of all percentages of negligence of all
10 the parties to a suit shall be 100%.

11 c. The judge shall mold the judgment for the finding of fact
12 made by the trier of fact.

1 3. The party so recovering, may recover the full amount of the
2 molded verdict from any party against whom such recovering party
3 is not barred from recovery. Any party who is so compelled to pay

4 more than such party's percentage share may seek contribution
5 from the other joint tortfeasors.
1 4. This act shall take effect January 1, 1973, and shall apply to
2 causes of action arising on and after said date.

STATEMENT

This legislation encompasses the recommendation of the Automobile Insurance Study Commission created under Joint Resolution 4 of 1970.

This legislation modifies the most outmoded and unjust law of this State, that is the law of contributory negligence, and substitutes in its place the law of comparative negligence. The injured party may recover so long as his negligence was not greater than the defendant's negligence. The injured party's damages will be reduced by the percentage of the injured party's negligence, provided he can recover.

Contributory negligence as applied in this State prevents an injured person from recovering anything if it can be shown that the injured person was in the slightest degree contributorily negligent even if such contributory negligence was as little as one percent or less.

This State will not be unique if it adopts the law of comparative negligence. Other jurisdictions such as Wisconsin, Arkansas, Georgia, Maine, Florida, Iowa, Mississippi, Nebraska, South Dakota, Puerto Rico, The Canal Zone, the Canadian providences, etc., have a form of comparative negligence. Comparative negligence is also applied under the Federal Merchant Marine Act, the Federal Employers Liability Act and the Federal Jones Act.

Under this act if the injured party-plaintiff is 60% negligent and the defendant is 40% negligent the injured party recovers nothing. However, if the injured party-plaintiff is 40% negligent and the defendant is 60% negligent, the injured party-plaintiff will recover only 60% of his damages.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 665

STATE OF NEW JERSEY

ADOPTED JUNE 19, 1972

Amend page 1, section 2, line 2, omit "the judge or jury as".

Amend page 1, section 2, line 11, after "judgment", omit "for",
insert "from".

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 665

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 7, 1972

By Assemblymen RAYMOND, DICKEY, DEVERIN, Assemblywoman KLEIN, Assemblymen LITTELL, BLACK, EWING, FORAN, MABIE, WILKIE, VEIT, SPIZZIRI, GEWERTZ, BORNHEIMER, FROUDE, COLASURDO and PERSKIE

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4 such negligence was not greater than the negligence of the person
5 against whom recovery is sought, but any damages sustained shall
6 be diminished by the percentage sustained of negligence attribu-
7 table to the person recovering.

1 2. In all negligence actions in which the question of liability is in
2 dispute, ***[the judge or jury as]*** the trier of fact shall make the
3 following as findings of fact:

4 a. The amount of damages which would be recoverable by the
5 injured party regardless of any consideration of negligence, that is,
6 the full value of the injured party's damages;

7 b. The extent, in the form of a percentage, of each parties'
8 negligence. The percentage of negligence of each party shall be
9 based on 100% and the total of all percentages of negligence of all
10 the parties to a suit shall be 100%.

11 c. The judge shall mold the judgment ***[for]*** *from* the finding
12 of fact made by the trier of fact.

1 3. The party so recovering, may recover the full amount of the
2 molded verdict from any party against whom such recovering party

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

A665 (OCR)

2

3 is not barred from recovery. Any party who is so compelled to pay
4 more than such party's percentage share may seek contribution
5 from the other joint tortfeasors.

1 4. This act shall take effect January 1, 1973, and shall apply to
2 causes of action arising on and after said date.

Rescinded 3-29-73

SENATE AMENDMENTS TO
ASSEMBLY, No. 665
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED NOVEMBER 20, 1972

Amend page 1, section 1, line 1, delete "an", and insert "any".

Amend page 1, section 1, lines 3 to 5, delete "if such negligence was not greater than the negligence of the person against whom recovery is sought,".

Amend page 1, section 1, line 5, delete "any", and insert "the".

Amend page 1, section 1, line 5, delete "sustained".

Amend page 1, section 1, lines 6 and 7, delete "by the percentage sustained of negligence attributable to the person recovering", and insert "in proportion to the amount of negligence attributable to the person injured".

Amend page 1, section 2, lines 2 and 3, delete "the trier of fact shall make the following as findings of fact", and insert "the court shall make findings of fact or the jury shall return a special verdict which shall state".

Amend page 1, section 2, lines 4 to 6, delete "which would be recoverable by the injured party, regardless of any consideration of negligence, that is, the full value of the injured party's damages;", and insert "incurred by each party irrespective of his negligence; and".

Amend page 1, section 2, lines 7 through 10, delete in their entirety and insert:

"b. the percentage of negligence attributable to each of the parties."

Amend page 1, section 2, lines 11 and 12, delete in their entirety.

Amend page 1, after section 2, insert a new section 3 as follows:

"3. The court shall calculate the monetary damages in accordance with the percentage of negligence attributable to each of the parties and shall enter an appropriate judgment."

Amend pages 1 and 2, section 3, lines 1 through 5, delete in its entirety.

SENATE REPRINT

ASSEMBLY, No. 665

[OFFICIAL COPY REPRINT]

with Senate amendments adopted November 20, 1972

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 7, 1972

By Assemblymen RAYMOND, DICKEY, DEVERIN, Assemblywoman
A. KLEIN, Assemblymen LITTELL, BLACK, EWING, FORAN,
MABIE, WILKIE, VEIT, SPIZZIRI, GEWERTZ, BORN-
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2 ****any**** action by any person or his legal representative to recover
3 damages for negligence resulting in death or injury to person or
4 property, ****[if such negligence was not greater than the negligence**
5 **of the person against whom recovery is sought,]**** but ****[any]****
6 ****the**** damages ****[sustained]**** shall be diminished ****[by the**
7 **percentage sustained of negligence attributable to the person**
8 **recovering]**** ***in proportion to the amount of negligence attri-*
9 *butable to the person injured**.*

1 2. In all negligence actions in which the question of liability is in
2 dispute, ****[the judge or jury as]**** ****[the trier of fact shall make the**
3 **following as findings of fact]**** ***the court shall make findings of*
4 *fact or the jury shall return a special verdict which shall state**:*

5 a. The amount of damages ****[which would be recoverable by the**
6 **injured party regardless of any consideration of negligence, that is,**
7 **the full value of the injured party's damages;]**** ***incurred by*
8 *each party irrespective of his negligence; and***

9 ****[b. The extent, in the form of a percentage, of each parties'**
10 **negligence. The percentage of negligence of each party shall be**

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11 based on 100% and the total of all percentages of negligence of all
12 the parties to a suit shall be 100%.]**

13 ***b. the percentage of negligence attributable to each of the*
14 *parties.***

15 ****[c. The judge shall mold the judgment **[for]* *from** the**
16 **finding of fact made by the trier of fact.]]****

1 ****[3. The party so recovering, may recover the full amount of the**
2 **molded verdict from any party against whom such recovering party**
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SENATE AMENDMENT TO
ASSEMBLY, No. 665
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MARCH 29, 1973

Amend page 2, section 4, line 1, omit "January 1, 1973," insert "90 days after enactment".

[SECOND SENATE REPRINT]

ASSEMBLY, No. 665

[OFFICIAL COPY REPRINT]

with Senate amendments adopted March 29, 1973

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 7, 1972

By Assemblymen RAYMOND, DICKEY, DEVERIN, Assemblywoman KLEIN, Assemblymen LITTELL, BLACK, EWING, FORAN, MABIE, WILKIE, VEIT, SPIZZIRI, GEWERTZ, BORNHEIMER, FROUDE, COLASURDO and PERSKIE

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A665 (2v OCR)

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FROM THE OFFICE OF THE GOVERNOR

MAY 24, 1973

FOR RELEASE:
IMMEDIATE

Governor William T. Cahill today signed the final bill implementing the Administration's no-fault automobile liability insurance package.

Assembly bill 665, sponsored by Assemblyman Eugene Raymond (R., Camden), partially eliminates contributory negligence as a bar to recovery in negligence suits. The bill applies in those situations in which a person may bring suit under the previously enacted no fault laws.

In signing the measure, the Governor said:

"No longer will a seriously insured person be prevented from obtaining compensation for his injuries merely because he was partially responsible, in a minor way, for the accident in which he was injured."

The new law establishes comparative negligence which means that a person can recover the amount of his injury reduced by the percentage of his responsibility for the accident. No recovery is permitted, however, for a person whose contributory negligence is greater than the negligence of the person from whom he is attempting to obtain recovery.

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