

BILL ANALYSIS

Senate Research Center

S.B. 429
By: Duncan
Economic Development
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As Filed

DIGEST

Currently, Texas law prohibits juries, when determining the percentage of responsibility of each party, from considering the fault of immune persons, such as employers with workers' compensation insurance. The law prevents juries from determining the employer's percentage of responsibility for an employee's injury. As a result, defendants are having to pay judgments that are larger than is justified by actual fault. This bill will limit an insurance carrier's subrogation interest and will reduce the amount of damages collectable from certain persons to a percentage equal to that person's percentage of liability.

PURPOSE

As proposed, S.B. 429 provides regulations on the liability of third parties for an injury to an employee.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 33.011(5) and (6), Civil Practice and Remedies Code, to redefine "settling person" and "responsible third party."

SECTION 2. Amends Section 33.012(d), Civil Practice and Remedies Code, to provide that Subsection (b) does not, rather than this section shall not, apply to benefits paid to a claimant under, rather than by or on behalf of an employer to an employee pursuant to, workers' compensation insurance coverage, as defined by Section 401.011, rather than Section 44, Labor Code, that is in effect at the time of the act, event, or occurrence made the basis of claimant's suit. Requires the court, if a settling person is protected from liability to the claimant by Section 408.001, Labor Code, to further reduce the amount of damages to be recovered by the claimant with respect to the cause of action by a percentage equal to that settling person's percentage of responsibility.

SECTION 3. Amends Section 417.001(b), Labor Code, to provide that an insurance carrier's subrogation interest is limited to the amount of the total benefits paid or assumed by the carrier to the employee or the legal beneficiary, less the amount by which the court reduces the judgment under Section 33.012(d), Civil Practice and Remedies Code. Makes conforming changes.

SECTION 4. Amends Section 417.002(a), Labor Code, to make a conforming change.

SECTION 5. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 6. Emergency clause.