

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0970.01 Jerry Barry x4341

HOUSE BILL 20-1348

HOUSE SPONSORSHIP

Kennedy,

SENATE SPONSORSHIP

Gonzales,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ADDITIONAL LIABILITY OF A DEFENDANT WHO ADMITS
102 LIABILITY UNDER RESPONDEAT SUPERIOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

A recent Colorado supreme court case held that in a civil action when an employer admits liability for the tortious actions of its employee, the plaintiff cannot assert additional claims against the employer arising out of the same incident. The bill allows a plaintiff to bring such claims against an employer.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-21-111.5, **add**
3 (1.5) as follows:

4 **13-21-111.5. Civil liability cases - pro rata liability of**
5 **defendants - respondeat superior - shifting financial responsibility for**
6 **negligence in construction agreements - legislative declaration.**

7 (1.5) (a) IN ANY CIVIL ACTION, A DEFENDANT DOES NOT AVOID LIABILITY
8 FOR ITS NEGLIGENT ACTS OR OMISSIONS, OR SHIELD ITSELF FROM
9 DISCOVERY CONCERNING SUCH ACTS OR OMISSIONS, BY ADMITTING OR
10 ACCEPTING THAT AN EMPLOYEE, AGENT, OR INDEPENDENT CONTRACTOR
11 WAS IN THE COURSE AND SCOPE OF EMPLOYMENT OR AGENCY AT THE TIME
12 THE TORTIOUS ACT WAS COMMITTED. A DEFENDANT HIRING OR RETAINING
13 AN EMPLOYEE, AGENT, OR INDEPENDENT CONTRACTOR MAY BE HELD
14 RESPONSIBLE FOR ITS OWN DIRECT NEGLIGENT ACTS OR OMISSIONS,
15 INCLUDING DERIVATIVE AND NONDERIVATIVE CLAIMS, IN ADDITION TO
16 BEING HELD LIABLE UNDER THE DOCTRINE OF RESPONDEAT SUPERIOR FOR
17 THE ACTS OR OMISSIONS OF ITS EMPLOYEES, AGENTS, OR INDEPENDENT
18 CONTRACTORS WORKING IN THE COURSE AND SCOPE OF EMPLOYMENT OR
19 AGENCY AT THE TIME THE TORTIOUS ACT WAS COMMITTED. IT IS NOT A
20 DEFENSE OR BAR THAT ONE PARTY'S NEGLIGENCE MUST COMBINE WITH
21 ANOTHER PARTY'S NEGLIGENCE TO RESULT IN AN INJURY OR DEATH EVENT.
22 THE TRIER OF FACT SHALL APPORTION THE DEGREE OR PERCENTAGE OF
23 NEGLIGENCE OR FAULT ATTRIBUTABLE TO EACH OF THE PARTIES AS
24 PROVIDED IN SUBSECTION (2) OF THIS SECTION. CONSISTENT WITH
25 SUBSECTION (1) OF THIS SECTION, NO PARTY IS LIABLE FOR AN AMOUNT
26 GREATER THAN THAT REPRESENTED BY THE DEGREE OR PERCENTAGE OF

1 NEGLIGENCE OR FAULT ATTRIBUTABLE TO SUCH PARTY, UNLESS THE PARTY
2 IS ALSO VICARIOUSLY LIABLE FOR THE ACTS AND OMISSIONS OF THE
3 DEFENDANT EMPLOYEE, AGENT, OR INDEPENDENT CONTRACTOR.

4 (b) THE MAJORITY OPINION OF *FERRER V. OKBAMICAEL*, 390 P.3D
5 836 (COLO. 2017), IS NOT IN ACCORD WITH PUBLIC POLICY AND THE
6 INTENT OF THIS SECTION. THE PURPOSE OF THIS SUBSECTION (1.5) IS TO
7 REVERSE THE HOLDING AND DECISION OF *FERRER V. OKBAMICAEL*, 390 P.3D
8 836 (COLO. 2017).

9 **SECTION 2. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect September 1, 2020; except that,
11 if a referendum petition is filed pursuant to section 1 (3) of article V of
12 the state constitution against this act or an item, section, or part of this act
13 within the ninety-day period after final adjournment of the general
14 assembly, then the act, item, section, or part will not take effect unless
15 approved by the people at the general election to be held in November
16 2020 and, in such case, will take effect on the date of the official
17 declaration of the vote thereon by the governor.

18 (2) This act applies to civil actions commenced on or after the
19 applicable effective date of this act.