

HOUSE BILL No. 5744

January 13, 2010, Introduced by Rep. Kandrevas and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2959 (MCL 600.2959), as added by 1995 PA 161.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2959. (1) In an action based on tort or another legal
2 theory seeking damages for personal injury, property damage, or
3 wrongful death, the court shall reduce the damages by the
4 percentage of comparative fault of the person upon whose injury or
5 death the damages are based as provided in section 6306. If that
6 person's percentage of fault is greater than the aggregate fault of
7 the other person or persons, whether or not parties to the action,
8 the court shall reduce economic damages by the percentage of
9 comparative fault of the person upon whose injury or death the

1 damages are based as provided in section 6306, and noneconomic
2 damages shall not be awarded.

3 (2) IN AN ACTION DESCRIBED IN SUBSECTION (1), WHETHER A
4 CONDITION IS OPEN AND OBVIOUS MAY BE CONSIDERED BY THE TRIER OF
5 FACT ONLY IN ASSESSING THE DEGREE OF COMPARATIVE FAULT, IF ANY, AND
6 SHALL NOT BE CONSIDERED WITH RESPECT TO ANY OTHER ISSUE OF LAW OR
7 FACT, INCLUDING DUTY.