
A BILL FOR AN ACT

RELATING TO TORT ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the collateral
2 source rule has been established by case law and is not based
3 upon statutory provisions. The legislature recognizes that
4 collateral source payments occur whenever a plaintiff in a tort
5 action receives compensation or benefits from a third party that
6 is not involved in the litigation to compensate for damages the
7 plaintiff sustained. The collateral source rule bars defendants
8 from introducing evidence to show that a plaintiff has received
9 collateral source payments. The legislature further believes
10 that, in practice, collateral sources often do not spend the
11 time and resources to track tort claims, which can take years to
12 resolve. Consequently, a plaintiff's recovery is often
13 duplicated to the extent the plaintiff received collateral
14 source payments.

15 The legislature finds that, by repealing the collateral
16 source rule, the injured person would be made whole for any
17 economic loss, but double recovery would be eliminated, which
18 would also lower auto insurance costs.



1 SECTION 2. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Collateral source rule; repealed; collateral
5 source defined. (a) As used in this section, the term
6 "collateral source" means any payments made to the plaintiff, or
7 made on the plaintiff's behalf, by or pursuant to:

8 (1) The United States Social Security Act, except Title
9 XVIII and Title XIX; any federal, state, or local
10 income disability act; or any other public programs
11 providing medical expenses, disability payments, or
12 other similar benefits, except those prohibited by
13 federal law and those expressly excluded by law as
14 collateral sources;

15 (2) Any health, sickness, or income disability insurance;
16 any automobile accident insurance that provides health
17 benefits or income disability coverage; and any other
18 similar insurance benefits, except life insurance
19 benefits available to the plaintiff, whether purchased
20 by the plaintiff or provided by others;

21 (3) Any contract or agreement of any group, organization,
22 partnership, or corporation to provide, pay for, or



1 reimburse the costs of hospital, medical, dental, or
2 other health care services; or

3 (4) Any contractual or voluntary wage continuation plan
4 provided for by employers or by any other system
5 intended to provide wages during a period of
6 disability;

7 provided that benefits received under medicare, or any other
8 federal program providing for a federal government lien on or
9 right of reimbursement from the plaintiff's recovery, the
10 worker's compensation law, the medicaid program of Title XIX of
11 the Social Security Act or from any medical services program
12 administered by the department of health shall not be considered
13 a collateral source.

14 (b) Evidence of collateral source payments introduced at
15 trial shall be admissible. The court shall reduce the amount of
16 an award by the total of all amounts that have been paid to the
17 plaintiff, or that are otherwise available to the plaintiff,
18 from a collateral source. The court shall offset the reduction
19 by any amount paid by the plaintiff to secure the benefit from a
20 collateral source."



H.B. NO. 81

1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

6

INTRODUCED BY: 

JAN 17 2007



Report Title:

Torts; No-fault; Collateral Source Rule

Description:

Repeals the collateral source rule, which bars defendants from introducing evidence to show that a plaintiff has received collateral source payments, that is, not from the defendant, for the sustained injury.

