

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda--underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

[Home](#) → [Model Legislation](#) → [Civil Justice](#)
Joint and Several Liability Act

Summary

ALEC's model Joint and Several Liability Act provides that each defendant is liable only for damages in direct proportion to that defendant's fault. The Act also provides for consideration of fault of non-parties when assessing percentages of fault. Joint liability is imposed on all who consciously and deliberately pursue a common plan or design to commit a tortious Act.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title.} This Act shall be known and may be cited as the Joint and Several Liability **Abolition** Act.

Section 2. {Definitions.} The following words, as used in this Act, shall have the meaning set forth below, unless the context clearly requires otherwise:

(A) "Damages" means pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, any other theory of damages such as fear of loss or illness or injury, loss of earnings and earning capacity, loss of income, medical expenses and medical care, rehabilitation services, custodial care, burial costs, loss of use of property, costs of repair or replacement of property, costs of obtaining substitute domestic services, loss of employment, loss of business or employment opportunities, and other objectively verifiable monetary losses. It does not include any punitive damages.

(B) "Fault" means an act or omission of a person that is a proximate cause of injury or death to another person or persons, damages to property, tangible or intangible, or economic injury, including, but not limited to, negligence, malpractice, strict liability, absolute liability, or failure to warn. Fault shall not include any tort that results from an act or omission committed with a specific wrongful intent.

(C) "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity or unincorporated association of persons.

Section 3. {Several liability.} In any action for personal injury, property damage accompanying personal injury, or wrongful death, the liability of each defendant for damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault, and a separate judgment shall be rendered against the defendant for that amount. To determine the amount of judgment to be entered against each defendant, the court, with regard to each defendant, shall multiply the total amount of damages recoverable by the plaintiff by the percentage of each defendant's fault, and that amount shall be the maximum recoverable against said defendant.

Section 4. {Fault of nonparties.}

(A) In assessing percentages of fault, the trier of fact shall consider the fault of all persons who contributed to the alleged injury or death, or damage to property, tangible or intangible, regardless of whether said person was, or could have been, named as a party to the suit. Negligence or fault of a nonparty may be considered if the plaintiff entered into a settlement agreement with the nonparty or if the defending party gives notice within 120 days of the date of trial that a nonparty was wholly or partially at fault. The notice shall be given by filing a pleading in the action designating such nonparty and setting forth such nonparty's name and last-known address, or the best identification of such nonparty that is possible under the circumstances, together with a brief statement of the basis for believing such nonparty to be at fault.

(B) Nothing in this Act is meant to eliminate or diminish any defenses or immunities that currently exist, except as expressly noted herein. Assessments of percentages of fault for nonparties are used only as a vehicle for accurately determining the fault of named parties. Where fault is assessed against nonparties, findings of such fault shall not subject any nonparty to liability in this or any other action, or be introduced as evidence of liability in any action.

Section 5. {Concert of action.} Joint liability shall be imposed on all who consciously and deliberately pursue a common plan or design to commit a tortious act, or actively take part in it. Any person held jointly liable under this Section shall have a right of contribution from his fellow defendants acting in concert. A defendant shall be held responsible only for the portion of fault assessed to those with whom he acted in concert under this Section.

Did you know that Victor Schwartz--a lawyer who represents companies in product litigation--was the corporate co-chair in 2011?

Exposed

By the Center for
Media and Democracy
www.prwatch.org

Section 6. {Burden of proof.} The burden of alleging and proving fault shall be upon the person who seeks to establish such fault.

Section 7. {Limitations.} Nothing in this Act shall be construed to create a cause of action. Nothing in this Act shall be construed, in any way, to alter the immunity of any person.

Section 8. {Severability clause.}

Section 9. {Repealer clause.}

Section 10. {Effective date.}

ALEC's Sourcebook of American State Legislation 1995

From CMD: This "model" bill is prominently titled the "Joint and Several Liability Act" but its actual purpose is the opposite, as can be seen in the first provision, in which the word "abolition" is included. That is, the bill is designed to eliminate joint and several liability, meaning that corporations would no longer be jointly liable for injuries caused by the products they manufacture or sell, along the chain of distribution. The bill would allow joint liability only if the companies deliberately conspired to commit a tort or injury against an American. Thus, this so-called model bill would reduce the liability of companies that sell a product that injures an American, by abolishing the legal doctrine of "joint" liability. This makes it more difficult for an injured American to recover damages (which cover all of the harms in the paragraph highlighted above) for all of their injuries from corporations that acted jointly but did not conspire to harm the injured American (which would generally be difficult to prove). This type of model legislation, that eliminates joint liability except in unusual cases gives a significant advantage to corporations. In a comparative negligence state, like Wisconsin, a plaintiff could be 20% at fault and four defendants could each be 16% at fault but escape liability.

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWatch.org, www.SourceWatch.org, and now www.ALECExposed.org. For more information contact: editor@prwatch.org or 608-260-9713.