

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?**

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Joint and Several Liability Act

Did you know that global pharmaceutical company Bayer Healthcare was the corporate co-chair in 2011?

Summary

The purpose of this Act is to fairly assign liability to persons in negligence w/cases with multiple defendants. This would ensure fairness and would strengthen the principle of individual responsibility. This bill would also work to eliminate unfair lawsuits which are often filed against those perceived to have money. For example, lawsuits are often filed against hospitals when the doctor is negligent because the hospital has greater financial resources.

ALEC's joint and Several Liability Act requires that each defendant be liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault. A separate judgment would be rendered against the defendants for the actual damage amount. In order 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 the amount shall be the maximum amount recoverable against each defendant. The decision as to the amount of fault is that of the courts. The burden of alleging and proving fault shall be upon the person who seeks to establish such fault.

Model Legislation

{Title, enacting clause, etc}

Section 1. This Act shall be known and may be cited as the Joint and Several Liability Act.

Section 2. 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, cost of repair or replacement of property, costs of obtaining substitute domestic services, loss of employment, loss of business or employment opportunities, and other objectivity verifiable monetary losses. "Damages" does not include any punitive damages.

(B) "Fault" means an act or omission of a person which is proximate cause of injury of 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 of 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 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 shall be construed 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 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.

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 course of action. Nothing in this Act shall be construed, in any way, to alter the immunity of any person.

Section 8. {Repealer clause}

Were your laws repealed?

Section 9. {Severability clause}

Section 10. {Effective date}

1995 Sourcebook of American State Legislation

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.

This bill limits a defendant's liability in a personal injury lawsuit where multiple causes for the injury may exist. It provides that a plaintiff can only recover a portion of damages equal to each defendant's liability. "Joint liability" would require that one defendant will be obligated to pay for an insolvent or judgment-proof defendant, helping to ensure that an injured plaintiff would be compensated for their injury. This bill establishes "joint and several liability," where each defendant will not be required to pay above their percentage of liability (unless they were proven to have acted in concert); if any defendant is unable to pay their share of damages, the injured person cannot recover the full amount awarded. This is a large advantage for corporations facing lawsuits.