

February 22, 1991 LB 88

the language in Section 1 clearly reveals the standard of liability that was in the...is in the current act. So, I know there was a bracket motion filed by you on Select File, and we would take the same position on this bracket motion. It's just not necessary to bracket the bill at this point. We cleared up the problem, we believe, sufficiently, and would not agree to bracket it at this time.

PRESIDENT MOUL: Thank you, Senator Ashford. Senator Abboud. Senator Abboud waives. Is there any other debate? Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Madam President. Senator Ashford, I was going to, and do have a motion up there to bring back LB 88 to strike the enacting clause just to discuss with you some of the points. And, if I could, could I ask you some questions about the intent of 88, that might clear up some things for me?

SENATOR ASHFORD: Yes.

SENATOR KRISTENSEN: Okay, thank you. In Section 1, we, when we put on my amendment on General File, put in there that this act would apply to all civil actions that accrue on or after the operative date of this act for damages arising out of, et cetera, et cetera, et cetera. When we put on, on Select File, your...you had an amendment that said in which contributory negligence is a defense. Now, one of the things that I, in reading, I just got the gold copy yesterday, and I apologize to the body, I wanted to take a day to look at this, but evidently that isn't something we can do. So I want to do it here on the floor to make sure that we understand the intentions, that when contributory negligence is a defense, if I read that literally, that means that in cases in which there is no instruction, for example, if there is a passenger, or someone in a car, when there is not an instruction given that isn't a def...I mean the defense just isn't possible, and that's a literal reading. Now, it is my intent, and the reason that I voted for it, and I'm asking you as a principal introducer of the bill, is it your intention that the phrases "to which contributory negligence is a defense" means to the classes of torts, not the individual case at issue and at bay? And so that you don't have to have an instruction of contributory negligence in order for the joint and several provisions that we've enacted for this bill to apply. Is that your understanding, and could