

# HOUSE BILL No. 4500

April 9, 2013, Introduced by Reps. Schmidt, Kandrevas and Irwin 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 amended by 2012 PA 608.

## 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 or 6306a,  
6 as applicable. If that person's percentage of fault is greater than  
7 the aggregate fault of the other person or persons, whether or not  
8 parties to the action, the court shall reduce economic damages by  
9 the percentage of comparative fault of the person upon whose injury

1 or death the damages are based as provided in section 6306 or  
2 6306a, as applicable, and noneconomic 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.