

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0136.01 Conrad Imel x2313

HOUSE BILL 21-1188

HOUSE SPONSORSHIP

Kennedy,

SENATE SPONSORSHIP

Gonzales,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL LIABILITY OF A DEFENDANT WHO ADMITS**
102 **LIABILITY UNDER RESPONDEAT SUPERIOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

A recent Colorado supreme court case held that in a civil action when an employer admits liability for the tortious actions of its employee, the plaintiff cannot assert direct negligence claims against the employer arising out of the same incident. The bill allows a plaintiff to bring such claims against an employer or against a principal that admits liability for the actions of its agent.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-21-111.5, **add**
3 (1.5) as follows:

4 **13-21-111.5. Civil liability cases - pro rata liability of**
5 **defendants - respondeat superior - shifting financial responsibility for**
6 **negligence in construction agreements - legislative declaration.**

7 (1.5) (a) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (1) OF THIS
8 SECTION TO THE CONTRARY, WHEN AN EMPLOYER OR PRINCIPAL
9 ACKNOWLEDGES VICARIOUS LIABILITY FOR AN EMPLOYEE'S OR AGENT'S
10 NEGLIGENCE, A PLAINTIFF'S DIRECT NEGLIGENCE CLAIMS AGAINST THE
11 EMPLOYER OR PRINCIPAL ARE NOT BARRED. A PLAINTIFF MAY BRING SUCH
12 CLAIMS, AND CONDUCT ASSOCIATED DISCOVERY, IN ADDITION TO CLAIMS
13 AND DISCOVERY BASED ON RESPONDEAT SUPERIOR.

14 (b) CONSISTENT WITH CURRENT LAW, NOTHING IN THIS
15 SUBSECTION (1.5) PERMITS A PLAINTIFF TO RECOVER COMPENSATORY AND
16 EXEMPLARY DAMAGES MORE THAN ONCE FOR THE SAME INJURY.

17 (c) IN ENACTING THIS SUBSECTION (1.5), IT IS THE INTENT OF THE
18 GENERAL ASSEMBLY TO REVERSE THE HOLDING IN *FERRER V. OKBAMICAEL*,
19 390 P.3d 836 (COLO. 2017), THAT AN EMPLOYER'S ADMISSION OF
20 VICARIOUS LIABILITY FOR ANY NEGLIGENCE OF ITS EMPLOYEES BARS A
21 PLAINTIFF'S DIRECT NEGLIGENCE CLAIMS AGAINST THE EMPLOYER.

22 **SECTION 2. Act subject to petition - effective date -**
23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
24 the expiration of the ninety-day period after final adjournment of the
25 general assembly; except that, if a referendum petition is filed pursuant
26 to section 1 (3) of article V of the state constitution against this act or an

1 item, section, or part of this act within such period, then the act, item,
2 section, or part will not take effect unless approved by the people at the
3 general election to be held in November 2022 and, in such case, will take
4 effect on the date of the official declaration of the vote thereon by the
5 governor.

6 (2) This act applies to civil actions commenced on or after the
7 applicable effective date of this act.