

# Janesville Gazette

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## OPINION

### OUR VIEWS

# Liability change could doom companies

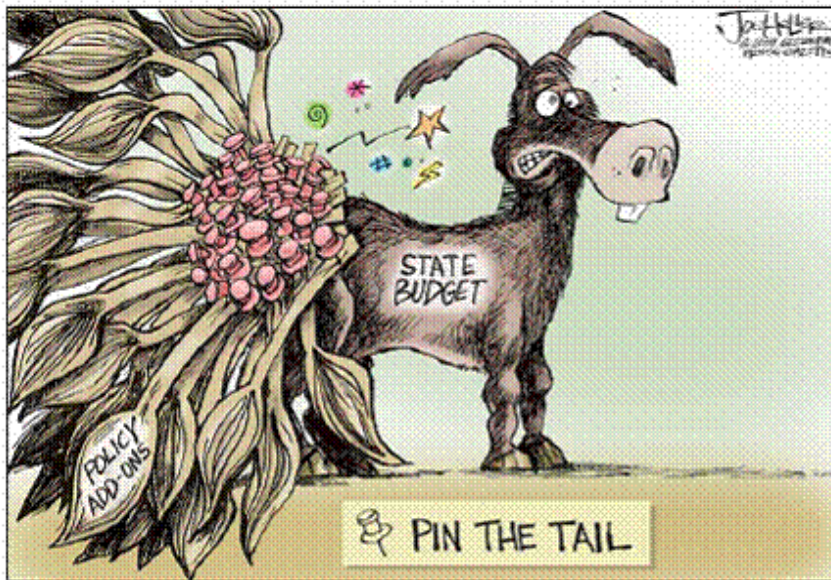
Imagine you invest your nest egg to open a small business downtown. You're having a sale and erect a sidewalk sign as permitted by city ordinance.

A speeding auto accidentally strikes and injures a pedestrian near your store. The victim sues the driver for \$3 million and names you in the suit after learning that your sign distracted the motorist.

You breathe a sigh of relief when the jury finds the driver 99 percent at fault and you just 1 percent to blame. But the driver has few assets and only \$100,000 in insurance. The judge says you owe \$2.9 million, even though your store's insurance coverage is only \$500,000. You'll have to sell the shop to pay the verdict.

Or consider this scenario. A drunken driver swerves off the road and hits a tree on your property, killing his buddy. The friend's family wants to sue for \$5 million, but because the driver is uninsured, the family goes after you for that amount.

In either case, you



would be stunned, of course. How can this be?

Such scenarios could play out if lawmakers don't strip what's known as joint and several liability from Gov. Jim Doyle's budget proposal.

"I feel it is a giant step backward in Wisconsin law," says Jim Viney, president and CEO of Sugar Creek Mutual Insurance in Elkhorn. "I am personally opposed to the change."

"I support personal responsibility," Viney wrote in an e-mail to the

Gazette, "but this seems to favor transferring responsibility not based on respective liability but on assets or insurance coverage."

Two decades ago, a defendant in a lawsuit might have had to pay the entire amount if found at least 1 percent at fault. In 1995, Wisconsin joined most states in reform. The Legislature changed the law to require a defendant to be at least 51 percent guilty before being on the hook for all damages.

Doyle believes his change would protect consumers.

The Wisconsin Civil Justice Council has a different view. In a news release, the council said Doyle's change also would rig the system to give juries a roadmap to maximize payouts from deep pockets—anyone with a business, farm, home or adequate insurance.

"The trial lawyers are already trying to cash in on Gov. Doyle's budget gift," council spokesman

Bob Fassbender says. "Hurting Wisconsin's economy through an explosion of lawsuits is just good business for the trial lawyers."

Bill Smith, state director of the National Federation of Independent Business, agrees. "These changes would result in more lawsuits, targeting more people, businesses, charities and anyone with money or insurance," Smith said in the news release. "And it appears Wisconsin's wealthiest trial lawyers have wasted no time in trying to cash in."

The council cites the Lake Geneva personal injury attorneys of Habush, Habush & Rottier as one such company salivating over Doyle's proposal.

The change would be yet another blow dealt out by Democrats in Madison to companies—perhaps even your employer—trying to survive in this economic downturn.

This is another policy issue the Joint Finance Committee should strike from the budget bill. If it doesn't, the Senate or Assembly should do so.