

---

By: **Delegates McComas, Bartlett, Bates, Bohanan, Boschert, Boutin, Cadden, Cluster, DeBoy, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman, Haddaway, Hogan, Jennings, Krebs, McKee, Miller, Myers, O'Donnell, Shank, Shewell, Stocksdale, Stull, Trueschler, and Wood**

Introduced and read first time: February 14, 2005

Assigned to: Rules and Executive Nominations

---

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Limitations on Awards for Noneconomic Damages - Latent**  
3 **Diseases or Injuries**

4 FOR the purpose of establishing that for purposes of a certain limitation on an award  
5 for noneconomic damages, a cause of action for personal injury in a latent  
6 disease or latent injury case arises on the earlier of a diagnosis or a  
7 manifestation of symptoms of a legally compensable injury or disease; providing  
8 for the application of this Act; and generally relating to the applicability of the  
9 limitation on noneconomic damages.

10 BY repealing and reenacting, without amendments,  
11 Article - Courts and Judicial Proceedings  
12 Section 11-108(a)  
13 Annotated Code of Maryland  
14 (2002 Replacement Volume and 2004 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article - Courts and Judicial Proceedings  
17 Section 11-108(b)  
18 Annotated Code of Maryland  
19 (2002 Replacement Volume and 2004 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Courts and Judicial Proceedings**

23 11-108.

24 (a) (1) In this section the following words have the meanings indicated.

1 (2) (i) "Noneconomic damages" means:

2 1. In an action for personal injury, pain, suffering,  
3 inconvenience, physical impairment, disfigurement, loss of consortium, or other  
4 nonpecuniary injury; and

5 2. In an action for wrongful death, mental anguish,  
6 emotional pain and suffering, loss of society, companionship, comfort, protection, care,  
7 marital care, parental care, filial care, attention, advice, counsel, training, guidance,  
8 or education, or other noneconomic damages authorized under Title 3, Subtitle 9 of  
9 this article.

10 (ii) "Noneconomic damages" does not include punitive damages.

11 (3) "Primary claimant" means a claimant in an action for the death of a  
12 person described under § 3-904(d) of this article.

13 (4) "Secondary claimant" means a claimant in an action for the death of  
14 a person described under § 3-904(e) of this article.

15 (b) (1) In any action for damages for personal injury in which the cause of  
16 action arises on or after July 1, 1986, an award for noneconomic damages may not  
17 exceed \$350,000.

18 (2) (i) Except as provided in paragraph (3)(ii) of this subsection, in any  
19 action for damages for personal injury or wrongful death in which the cause of action  
20 arises on or after October 1, 1994, an award for noneconomic damages may not exceed  
21 \$500,000.

22 (ii) The limitation on noneconomic damages provided under  
23 subparagraph (i) of this paragraph shall increase by \$15,000 on October 1 of each year  
24 beginning on October 1, 1995. The increased amount shall apply to causes of action  
25 arising between October 1 of that year and September 30 of the following year,  
26 inclusive.

27 (3) (i) The limitation established under paragraph (2) of this  
28 subsection shall apply in a personal injury action to each direct victim of tortious  
29 conduct and all persons who claim injury by or through that victim.

30 (ii) In a wrongful death action in which there are two or more  
31 claimants or beneficiaries, an award for noneconomic damages may not exceed 150%  
32 of the limitation established under paragraph (2) of this subsection, regardless of the  
33 number of claimants or beneficiaries who share in the award.

34 (4) FOR PURPOSES OF THIS SUBSECTION, A CAUSE OF ACTION FOR  
35 DAMAGES FOR PERSONAL INJURY IN A LATENT DISEASE OR LATENT INJURY CASE  
36 ARISES ON THE EARLIER OF THE DIAGNOSIS OR THE MANIFESTATION OF SYMPTOMS  
37 OF A LEGALLY COMPENSABLE INJURY OR DISEASE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applied  
2 to all cases filed or pending before a tribunal of competent jurisdiction in which a trial  
3 has not commenced on or after July 1, 2005.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 July 1, 2005.