
By: Delegate McHale

Introduced and read first time: February 29, 1996

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Products Liability Actions - Punitive Damages**

3 FOR the purpose of specifying the circumstances under which punitive damages may be
4 awarded in certain products liability actions; specifying the circumstances under
5 which a principal, employer, or master may be held liable for punitive damages
6 based on the acts or omissions of an agent, employee, or servant; providing for the
7 allocation of punitive damages awarded to a party; limiting attorneys' fees in an
8 action in which punitive damages are awarded; defining a term; providing for the
9 application of this Act; and generally relating to punitive damages in products
10 liability actions.

11 BY adding to

12 Article - Courts and Judicial Proceedings
13 Section 11-111
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1995 Supplement)

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

18 **Article - Courts and Judicial Proceedings**

19 11-111.

20 (A) (1) IN THIS SECTION "PUNITIVE DAMAGES" MEANS ANY TYPE OF
21 ADDITIONAL DAMAGES AWARDED TO PENALIZE, PUNISH, OR DETER A DEFENDANT
22 AND OTHERS FROM CERTAIN CONDUCT.

23 (2) "PUNITIVE DAMAGES" INCLUDES VINDICTIVE DAMAGES AND
24 EXEMPLARY DAMAGES.

25 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN A
26 PRODUCTS LIABILITY ACTION, PUNITIVE DAMAGES MAY BE AWARDED IF IT IS
27 PROVEN BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT OR
28 RESPONSIBLE PARTY:

29 (I) KNEW OR SHOULD HAVE KNOWN OF THE DANGEROUS
30 NATURE OF THE PRODUCT; AND

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1 (II) HAS SHOWN A DELIBERATE DISREGARD FOR THE RIGHTS AND
2 SAFETY OF PERSONS WHO USE, CONSUME, OR ARE OR MAY BE EXPOSED TO THE
3 PRODUCT.

4 (2) PUNITIVE DAMAGES MAY NOT BE AWARDED UNDER PARAGRAPH
5 (1) OF THIS SUBSECTION IN A PRODUCTS LIABILITY ACTION INVOLVING A PRODUCT
6 APPROVED BY THE FOOD AND DRUG ADMINISTRATION OF THE UNITED STATES
7 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

8 (C) (1) A PRINCIPAL, EMPLOYER, OR MASTER MAY NOT BE HELD LIABLE
9 FOR PUNITIVE DAMAGES BASED UPON ACTS OR OMISSIONS OF AN AGENT,
10 EMPLOYEE, OR SERVANT UNLESS:

11 (I) THE PRINCIPAL, EMPLOYER, OR MASTER KNEW OR SHOULD
12 HAVE KNOWN OF THE UNFITNESS OF THE AGENT, EMPLOYEE, OR SERVANT, AND
13 EMPLOYED OR CONTINUED TO EMPLOY THE AGENT, EMPLOYEE, OR SERVANT;

14 (II) THE PRINCIPAL, EMPLOYER, OR MASTER AUTHORIZED THE
15 WRONGFUL CONDUCT;

16 (III) THE PRINCIPAL, EMPLOYER, OR MASTER RATIFIED OR
17 APPROVED THE WRONGFUL CONDUCT; OR

18 (IV) THE AGENT, EMPLOYEE, OR SERVANT WAS EMPLOYED IN A
19 MANAGERIAL CAPACITY AND WAS ACTING IN THE SCOPE OF EMPLOYMENT.

20 (2) RATIFICATION OR APPROVAL OF CONDUCT UNDER PARAGRAPH
21 (1)(III) OF THIS SUBSECTION SHALL BE CONCLUSIVELY ESTABLISHED IF THE
22 CONDUCT REPRESENTS A REPETITIVE COURSE OF ACTION DONE IN FURTHERANCE
23 OF THE PRINCIPAL'S, EMPLOYER'S, OR MASTER'S BUSINESS.

24 (D) IF PUNITIVE DAMAGES ARE AWARDED TO A PARTY, ONE-HALF SHALL BE
25 PAID TO THE GENERAL FUND OF THE STATE AND ONE-HALF SHALL BE PAID TO THE
26 PARTY AWARDED THE PUNITIVE DAMAGES, AFTER THE PAYMENT OF ATTORNEYS'
27 FEES, WHICH MAY NOT EXCEED 33 AND 1/3%.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
29 actions pending in a court on July 1, 1996, other than an action for which a final judgment
30 has been rendered and for which all appeals, if any, have been exhausted, and to actions
31 filed in a court on or after July 1, 1996, other than an action for which a final judgment
32 has been rendered and for which all appeals, if any, have been exhausted.

33 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this
34 Act or the application thereof to any person or circumstance is held invalid for any reason
35 in a court of competent jurisdiction, the invalidity does not affect other provisions or any
36 other application of this Act which can be given effect without the invalid provision or
37 application, and for this purpose the provisions of this Act are declared severable.

38 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
39 July 1, 1996.