
By: **Delegate Hurson**

Introduced and read first time: February 19, 1999

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Limitation on Awards for Noneconomic Damages - Exposure**
3 **to Asbestos or Tobacco**

4 FOR the purpose of providing that a certain limitation on an award for noneconomic
5 damages does not apply to certain actions for damages for personal injury or
6 wrongful death in which a person was exposed to asbestos, tobacco, or tobacco
7 smoke before a certain date; providing for the application of this Act; and
8 generally relating to a certain limitation on awards for noneconomic damages.

9 BY repealing and reenacting, with amendments,
10 Article - Courts and Judicial Proceedings
11 Section 11-108
12 Annotated Code of Maryland
13 (1998 Replacement Volume)

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

16 **Article - Courts and Judicial Proceedings**

17 11-108.

18 (a) In this section:

19 (1) "Noneconomic damages" means:

20 (i) In an action for personal injury, pain, suffering, inconvenience,
21 physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury;
22 and

23 (ii) In an action for wrongful death, mental anguish, emotional pain
24 and suffering, loss of society, companionship, comfort, protection, care, marital care,
25 parental care, filial care, attention, advice, counsel, training, guidance, or education,
26 or other noneconomic damages authorized under Title 3, Subtitle 9 of this article; and

27 (2) "Noneconomic damages" does not include punitive damages.

1 (3) "Primary claimant" means a person described under § 3-904(d) of
2 this article.

3 (4) "Secondary claimant" means a person described under § 3-904(e) of
4 this article.

5 (B) THIS SECTION DOES NOT APPLY TO ANY ACTION FOR DAMAGES FOR
6 PERSONAL INJURY OR WRONGFUL DEATH IN WHICH A PERSON WAS EXPOSED
7 BEFORE JULY 1, 1986, TO:

8 (1) ASBESTOS, WHICH IS A CAUSE OF MALIGNANCY OR DEATH TO THE
9 PERSON RESULTING FROM THE MALIGNANCY; OR

10 (2) TOBACCO OR TOBACCO SMOKE, WHICH IS A CAUSE OF PERSONAL
11 INJURY OR DEATH TO THE PERSON.

12 [(b)] (C) (1) In any action for damages for personal injury in which the cause
13 of action arises on or after July 1, 1986, an award for noneconomic damages may not
14 exceed \$350,000.

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

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

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

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

31 [(c)] (D) An award by the health claims arbitration panel in accordance with §
32 3-2A-06 of this article shall be considered an award for purposes of this section.

33 [(d)] (E) (1) In a jury trial, the jury may not be informed of the limitation
34 established under subsection [(b)] (C) of this section.

35 (2) (i) If the jury awards an amount for noneconomic damages that
36 exceeds the limitation established under subsection [(b)] (C) of this section, the court
37 shall reduce the amount to conform to the limitation.

1 (ii) In a wrongful death action in which there are two or more
2 claimants or beneficiaries, if the jury awards an amount for noneconomic damages
3 that exceeds the limitation established under subsection [(b)(3)(ii)] (C)(3)(II) of this
4 section, the court shall:

5 1. If the amount of noneconomic damages for the primary
6 claimants equals or exceeds the limitation under subsection [(b)(3)(ii)] (C)(3)(II) of this
7 section:

8 A. Reduce each individual award of a primary claimant
9 proportionately to the total award of all of the primary claimants so that the total
10 award to all claimants or beneficiaries conforms to the limitation; and

11 B. Reduce each award, if any, to a secondary claimant to zero
12 dollars; or

13 2. If the amount of noneconomic damages for the primary
14 claimants does not exceed the limitation under subsection [(b)(3)(ii)] (C)(3)(II) of this
15 section or if there is no award to a primary claimant:

16 A. Enter an award to the primary claimant, if any, as
17 directed by the verdict; and

18 B. Reduce each individual award of a secondary claimant
19 proportionately to the total award of all of the secondary claimants so that the total
20 award to all claimants or beneficiaries conforms to the limitation.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
22 any case pending or filed on or after the effective date of this Act, but may not be
23 applied to any case in which a final judgment has been entered and in which appeals,
24 if any, have been exhausted before the effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1999.