

HOUSE BILL 1060

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1999 Regular Session
9lr2422
CF 9lr1371

By: **Delegate Hurson**
Introduced and read first time: February 19, 1999
Assigned to: Rules and Executive Nominations
Re-referred to: Judiciary, February 26, 1999

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 27, 1999

CHAPTER _____

1 AN ACT concerning

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

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~~ based on a certain exposure to a substance that occurred before a certain
8 date; defining a certain term; making stylistic changes; providing for the
9 application of this Act; and generally relating to a certain limitation on awards
10 for noneconomic damages.

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section 11-108
14 Annotated Code of Maryland
15 (1998 Replacement Volume)

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 11-108.

20 (a) (1) In this section: THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

1 (+) (2) (1) "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; ~~and.~~

10 (2) (II) "Noneconomic damages" does not include punitive damages.

11 (3) "OCCUPATIONAL EXPOSURE" MEANS EXPOSURE TO A SUBSTANCE IN
12 A PLACE OF EMPLOYMENT THAT IS A CAUSE OF DISEASE IN:

13 (1) A PERSON EXPOSED TO THE SUBSTANCE IN THE PERSON'S
14 EMPLOYMENT; OR

15 (II) THE SPOUSE OR OTHER FAMILY OR HOUSEHOLD MEMBER OF
16 THE PERSON.

17 (4) "Primary claimant" means a person described under § 3-904(d) of
18 this article.

19 (+) (5) "Secondary claimant" means a person described under §
20 3-904(e) of this article.

21 (B) THIS SECTION DOES NOT APPLY TO ANY ACTION FOR DAMAGES FOR
22 PERSONAL INJURY OR WRONGFUL DEATH ~~IN WHICH A PERSON WAS EXPOSED THAT~~
23 IS BASED ON AN OCCUPATIONAL EXPOSURE THAT OCCURRED BEFORE JULY 1, 1986,
24 ~~TO:~~

25 (+) ~~ASBESTOS, WHICH IS A CAUSE OF MALIGNANCY OR DEATH TO THE~~
26 ~~PERSON RESULTING FROM THE MALIGNANCY; OR~~

27 (2) ~~TOBACCO OR TOBACCO SMOKE, WHICH IS A CAUSE OF PERSONAL~~
28 ~~INJURY OR DEATH TO THE PERSON.~~

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

32 (2) (i) Except as provided in paragraph (3)(ii) of this subsection, in any
33 action for damages for personal injury or wrongful death in which the cause of action
34 arises on or after October 1, 1994, an award for noneconomic damages may not exceed
35 \$500,000.

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

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

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

13 [(c)] (D) An award by the health claims arbitration panel in accordance with §
14 3-2A-06 of this article shall be considered an award for purposes of this section.

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

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

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

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

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

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

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

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

1 B. Reduce each individual award of a secondary claimant
2 proportionately to the total award of all of the secondary claimants so that the total
3 award to all claimants or beneficiaries conforms to the limitation.

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

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