
By: **Senator Bromwell**

Introduced and read first time: February 5, 1999

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Limitation on Awards for Noneconomic Damages -**
3 **Substances**

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 in which contact by a
6 person with a substance occurred before a certain date; providing for the
7 application of this Act; and generally relating to a certain limitation on awards
8 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 CONTACT BY A PERSON WITH A
7 SUBSTANCE BEFORE JULY 1, 1986 WAS A CAUSE THAT ULTIMATELY RESULTED IN
8 PERSONAL INJURY OR DEATH TO THE PERSON.

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

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

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

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

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

28 [(c)] (D) An award by the health claims arbitration panel in accordance with §
29 3-2A-06 of this article shall be considered an award for purposes of this section.

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

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

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

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

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

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

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

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

14 B. Reduce each individual award of a secondary claimant
15 proportionately to the total award of all of the secondary claimants so that the total
16 award to all claimants or beneficiaries conforms to the limitation.

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

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