
By: **Delegates Dembrow, Zirkin, Grosfeld, Barkley, Burns, Montague,
Griffith, and Menes**

Introduced and read first time: February 11, 2000

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Limitation on Awards for Noneconomic Damages -**
3 **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 based on a certain exposure to a substance that occurred before
7 a certain date; defining a certain term; making stylistic changes; providing for
8 the application of this Act; and generally relating to a certain limitation on
9 awards for noneconomic damages.

10 BY repealing and reenacting, with amendments,
11 Article - Courts and Judicial Proceedings
12 Section 11-108
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 1999 Supplement)

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

17 **Article - Courts and Judicial Proceedings**

18 11-108.

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

21 [(1)] (2) (I) "Noneconomic damages" means:

22 [(i)] 1. In an action for personal injury, pain, suffering,
23 inconvenience, physical impairment, disfigurement, loss of consortium, or other
24 nonpecuniary injury; and

25 [(ii)] 2. In an action for wrongful death, mental anguish,
26 emotional pain and suffering, loss of society, companionship, comfort, protection, care,
27 marital care, parental care, filial care, attention, advice, counsel, training, guidance,

1 or education, or other noneconomic damages authorized under Title 3, Subtitle 9 of
2 this article; and

3 [(2)] (II) "Noneconomic damages" does not include punitive damages.

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

6 (I) A PERSON EXPOSED TO THE SUBSTANCE IN THE PERSON'S
7 EMPLOYMENT; OR

8 (II) THE SPOUSE OR OTHER FAMILY OR HOUSEHOLD MEMBER OF
9 THE PERSON.

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

12 [(4)] (5) "Secondary claimant" means a person described under §
13 3-904(e) of this article.

14 (B) THIS SECTION DOES NOT APPLY TO ANY ACTION FOR DAMAGES FOR
15 PERSONAL INJURY OR WRONGFUL DEATH THAT IS BASED ON AN OCCUPATIONAL
16 EXPOSURE THAT OCCURRED BEFORE JULY 1, 1986.

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

20 (2) (i) Except as provided in paragraph (3)(ii) of this subsection, in any
21 action for damages for personal injury or wrongful death in which the cause of action
22 arises on or after October 1, 1994, an award for noneconomic damages may not exceed
23 \$500,000.

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

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

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

36 [(c)] (D) An award by the health claims arbitration panel in accordance with §
37 3-2A-06 of this article shall be considered an award for purposes of this section.

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

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

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

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

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

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

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

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

23 B. Reduce each individual award of a secondary claimant
24 proportionately to the total award of all of the secondary claimants so that the total
25 award to all claimants or beneficiaries conforms to the limitation.

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

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2000.