
By: **Senators Jacobs, Hafer, Kittleman, and Mooney**

Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions - Limitations on Awards for Noneconomic Damages - Latent**
3 **Diseases or Injuries**

4 FOR the purpose of establishing that for purposes of a certain limitation on an award
5 for noneconomic damages, a cause of action for personal injury in a latent
6 disease or latent injury case arises on the earlier of a diagnosis or a
7 manifestation of symptoms of a legally compensable injury or disease; providing
8 for the application of this Act; and generally relating to the applicability of the
9 limitation on noneconomic damages.

10 BY repealing and reenacting, without amendments,
11 Article - Courts and Judicial Proceedings
12 Section 11-108(a)
13 Annotated Code of Maryland
14 (2002 Replacement Volume and 2004 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Courts and Judicial Proceedings
17 Section 11-108(b)
18 Annotated Code of Maryland
19 (2002 Replacement Volume and 2004 Supplement)

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

22 **Article - Courts and Judicial Proceedings**

23 11-108.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) (i) "Noneconomic damages" means:

1 1. In an action for personal injury, pain, suffering,
2 inconvenience, physical impairment, disfigurement, loss of consortium, or other
3 nonpecuniary injury; and

4 2. In an action for wrongful death, mental anguish,
5 emotional pain and suffering, loss of society, companionship, comfort, protection, care,
6 marital care, parental care, filial care, attention, advice, counsel, training, guidance,
7 or education, or other noneconomic damages authorized under Title 3, Subtitle 9 of
8 this article.

9 (ii) "Noneconomic damages" does not include punitive damages.

10 (3) "Primary claimant" means a claimant in an action for the death of a
11 person described under § 3-904(d) of this article.

12 (4) "Secondary claimant" means a claimant in an action for the death of
13 a person described under § 3-904(e) of this article.

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

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

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

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

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

33 (4) FOR PURPOSES OF THIS SUBSECTION, A CAUSE OF ACTION FOR
34 DAMAGES FOR PERSONAL INJURY IN A LATENT DISEASE OR LATENT INJURY CASE
35 ARISES ON THE EARLIER OF THE DIAGNOSIS OR THE MANIFESTATION OF SYMPTOMS
36 OF A LEGALLY COMPENSABLE INJURY OR DISEASE.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applied
38 to all cases filed or pending before a tribunal of competent jurisdiction in which a trial
39 has not commenced on or after July 1, 2005.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2005.