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SENATE BILL NO. 267

Offered January 8, 2020

Prefiled January 3, 2020

A *BILL to amend and reenact §§ 8.01-38.1 and 8.01-581.15 of the Code of Virginia, relating to limitation on recovery; manufacture, distribution, or prescription of opioids.*

 Patron—Bell

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-38.1 and 8.01-581.15 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-38.1. Limitation on recovery of punitive damages.

A. In any action accruing on or after July 1, 1988, including an action for medical malpractice under Chapter 21.1 (§ 8.01-581.1 et seq.), the total amount awarded for punitive damages against all defendants found to be liable shall be determined by the trier of fact. In no event shall the total amount awarded for punitive damages exceed \$350,000. The jury shall not be advised of the limitation prescribed by this section. However, if a jury returns a verdict for punitive damages in excess of the maximum amount specified in this section, the judge shall reduce the award and enter judgment for such damages in the maximum amount provided by this section.

B. *In any action for the injury to or death of a person accruing on or after July 1, 2020, against a manufacturer or distributor of opioids where it was claimed that the injury to or death of a person was due to such person's use of opioids manufactured or distributed by the defendant, the limitation on recovery set out in subsection A shall not apply.*

§ 8.01-581.15. Limitation on recovery in certain medical malpractice actions.

In any verdict returned against a health care provider in an action for malpractice where the act or acts of malpractice occurred on or after August 1, 1999, which is tried by a jury or in any judgment entered against a health care provider in such an action which is tried without a jury, the total amount recoverable for any injury to, or death of, a patient shall not exceed the following, corresponding amount:

August 1, 1999, through June 30, 2000	\$1.50 million
July 1, 2000, through June 30, 2001	\$1.55 million
July 1, 2001, through June 30, 2002	\$1.60 million
July 1, 2002, through June 30, 2003	\$1.65 million
July 1, 2003, through June 30, 2004	\$1.70 million
July 1, 2004, through June 30, 2005	\$1.75 million
July 1, 2005, through June 30, 2006	\$1.80 million
July 1, 2006, through June 30, 2007	\$1.85 million
July 1, 2007, through June 30, 2008	\$1.925 million
July 1, 2008, through June 30, 2012	\$2.00 million
July 1, 2012, through June 30, 2013	\$2.05 million
July 1, 2013, through June 30, 2014	\$2.10 million
July 1, 2014, through June 30, 2015	\$2.15 million
July 1, 2015, through June 30, 2016	\$2.20 million
July 1, 2016, through June 30, 2017	\$2.25 million
July 1, 2017, through June 30, 2018	\$2.30 million
July 1, 2018, through June 30, 2019	\$2.35 million
July 1, 2019, through June 30, 2020	\$2.40 million
July 1, 2020, through June 30, 2021	\$2.45 million
July 1, 2021, through June 30, 2022	\$2.50 million
July 1, 2022, through June 30, 2023	\$2.55 million
July 1, 2023, through June 30, 2024	\$2.60 million
July 1, 2024, through June 30, 2025	\$2.65 million
July 1, 2025, through June 30, 2026	\$2.70 million
July 1, 2026, through June 30, 2027	\$2.75 million
July 1, 2027, through June 30, 2028	\$2.80 million
July 1, 2028, through June 30, 2029	\$2.85 million
July 1, 2029, through June 30, 2030	\$2.90 million
July 1, 2030, through June 30, 2031	\$2.95 million

In any verdict returned against a health care provider in an action for malpractice where the act or

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61 acts of malpractice occurred on or after July 1, 2031, which is tried by a jury or in any judgment
62 entered against a health care provider in such an action which is tried without a jury, the total amount
63 recoverable for any injury to, or death of, a patient shall not exceed \$3 million. Each annual increase
64 shall apply to the act or acts of malpractice occurring on or after the effective date of the increase.

65 Where the act or acts of malpractice occurred prior to August 1, 1999, the total amount recoverable
66 for any injury to, or death of, a patient shall not exceed the limitation on recovery set forth in this
67 ~~statute~~ section as it was in effect when the act or acts of malpractice occurred.

68 *In any verdict returned against a health care provider in an action for malpractice where the act or*
69 *acts of malpractice occurred on or after July 1, 2020, and where it was claimed that the injury to or*
70 *death of a patient was due to the health care provider's prescription of opioids in excess of the*
71 *recommended dosage or quantity, the limitations on recovery set forth in this section shall not apply.*

72 In interpreting this section, the definitions found in § 8.01-581.1 shall be applicable.