

LD5962156

HOUSE BILL NO. 2498

Offered January 23, 1995

A BILL to amend the Code of Virginia by adding a section numbered 8.01-38.2 and to repeal § 8.01-38.1 of the Code of Virginia, relating to punitive damages; limitation.

Patrons—Cohen, Brickley, Copeland, Davies, Johnson, Jones, J.C., Melvin and Robinson

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-38.2 as follows:

§ 8.01-38.2. Determination of amount of punitive damages.

A. In any action for punitive damages accruing on or after July 1, 1995, the total amount recoverable against a defendant shall not exceed the greater of \$350,000 or five percent of the defendant's net worth. The limitation shall apply to each defendant individually and independently of the liability of any other defendant for punitive damages or any other defendant's net worth.

As used in this section, the term "net worth," when applied to an individual, shall be determined on the basis of fair market value. When applied to a corporation or partnership, the term shall mean net stockholders' equity, total shareholders' equity, aggregate partners' equity, total partners' equity, or similar terms customarily used and understood in accordance with generally accepted accounting principles.

B. In determining the amount of punitive damages, the trier of fact shall consider all relevant evidence, including:

1. The character and degree of reprehensibility of the defendant's conduct;

2. The duration of the conduct, the defendant's awareness of it, and any concealment of it by the defendant;

3. The profitability of the conduct to the defendant and the desirability of removing that profit and of having the defendant also sustain a loss;

4. The severity of the harm caused by the defendant;

5. The costs of litigating the case;

6. The desirability of discouraging others from similar conduct;

7. The reasonableness of the relationship of the punitive damages award to the harm done by the defendant and the harm that is likely to result;

8. Awards of compensatory and punitive or exemplary damages made to persons similarly situated to the plaintiff.

C. If a verdict is rendered awarding punitive damages, the trial court shall carefully review the decision of the trier of fact, considering all relevant evidence, including the factors identified in subsections A and B, to ensure that the award does not exceed an amount that will accomplish society's goal of punishment and deterrence. The trial court shall reflect in the record the reasons for interfering with a jury verdict or for refusing to do so.

2. That § 8.01-38.1 of the Code of Virginia is repealed.

INTRODUCED

HB2498