



American Tort Reform Association

1101 Connecticut Ave, NW ■ Suite 400 ■ Washington, DC 20036
(202) 682-1163 ■ Fax: (202) 682-1022 ■ www.atra.org

2009 State Tort Reform Enactments

(as of July 2009)

The political environment of most states was adverse to reform and often favorable to trial bar proponents, which made it difficult to pass affirmative reform while forcing the civil justice reform community to play defense for most of the session. The below list of bills reflects affirmative legislation that has been enacted this year, a modest amount when compared to previous years. However, civil justice reform advocates scored a big win in Oklahoma with the passage of comprehensive tort reform legislation *and* we enjoyed a tremendous amount of success by defeating approximately 90% of the 150 trial lawyer bills that were considered in state capitals this year. ATRA applauds those legislatures and state leaders who have enacted affirmative reforms this year as well as those who have defeated the many trial bar-sponsored legislative initiatives.

Florida

Workers' Compensation Reform – H.B. 903

Restored some of the critical reforms passed in 2003 that were undone by the Florida Supreme Court ruling in *Murray vs. Mariners Health*.

Class Action Reform – S.B. 2198

Provided that a stay of judgment is executed during interlocutory appeal.

Indiana

Jury Service Reform – H.B. 1686

Provided that an individual at least 75 years of age may be exempted from jury duty if the individual requests an exemption from jury duty.

Oklahoma – Comprehensive Tort Reform – H.B. 1603

Asbestos/Silicosis Reforms

Brought Oklahoma law in conformity with many other states by providing that a lawsuit should only be brought when there is a medical claim and protects successor companies who have purchased companies with an earlier asbestos exposure.

Appeal Bond Reform

Limited the amount a defendant can be required to pay to secure the right to appeal to \$25 million. Eliminated bonding requirement to appeal a punitive damages judgment.

Certificate of Merit for Professional Negligence

Required an affidavit of merit within 90 days of a lawsuit being filed.

Class Action Reform

Defined who can be a member of a class and set a procedure for the court to determine class attorneys and fees to be paid. Allowed the court to appoint an independent attorney to represent the class in any dispute over attorneys fees. Provided that in coupon settlements, the attorney shall receive fee in coupons.

Forum non conviens

Allowed the court to move a case which should be more properly heard somewhere else in the state, thus restricting “forum shopping”

Gun Manufacturers Liability Protection – Provided liability protection for gun manufacturers simply because they made the gun.

Joint & Several Liability

Provided that unless a defendant is more than 50% at fault, the defendant will only be charged its proportionate share of the injury award.

Junk Science & Expert Witness Reforms

Adopted Federal Rules to create stricter standards for admitting expert testimony.

Mandatory Dismissal for Late Service (180 days)

Mandated dismissal when service of process has not been filed within 180 days after the filing of the petition.

Noneconomic Damages

Provided that in any civil action arising from a claimed bodily injury, the amount of compensation which a trier of fact may award a plaintiff for noneconomic loss shall not exceed \$400,000, except under certain circumstances.

Obesity Litigation Reform– Provided liability protection for purveyors of food for claims of obesity.

Prejudgment Interest Reforms

Provided that prejudgment interest does not begin to accrue until two years after the beginning of a lawsuit; reduced the interest rate charged.

Products Liability

Provided that a manufacturer shall not be liable if the product is inherently unsafe.

Redefining of “Frivolous” Lawsuits

Tightened up what a “frivolous lawsuit” is, so a judge can dismiss it earlier in the process.

Summary Judgment

Adopted the Federal Rules dealing with summary judgment which will allow judges to dismiss frivolous lawsuits earlier in the process.

Volunteer Liability

Provided liability protections for volunteers.