



American Tort Reform Association

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2006 State Tort Reform Enactments *(as of December 2006)*

Alabama

Appeal Bond Reform – H.B. 220

Limited appeal bonds for signatories to the Master Settlement Agreement to \$125 million.

Arizona

Jury Service Reform – H.B. 2133

Modified key provisions of ALEC's Jury Patriotism Act that was adopted in 2003 to make jurors eligible to receive compensation from the lengthy trial fund (up to \$300 per day) for those who serve on juries for more than five days. In such circumstances, jurors would then receive additional compensation beginning from the fourth day served.

Colorado

Common Law Defenses – H.B. 1237

Clarified the applicability of certain statutory provisions in premises liability actions.

Florida

Joint and Several Liability Reform – H.B. 145

Abolished joint and several liability.

Appeal Bond Reform – H.B. 841

Limited appeal bond amounts in any civil action, except for certified class actions subject 768.733, to \$50 million.

Class Action Reform – H.B. 7529

Established venue reform to prohibit out-of-state residents from filing lawsuits in Florida courts unless the claim occurred or emanated from the state. Required claimants to prove actual damages in order to maintain certain types of class actions. Would not preclude the Attorney General from bringing a class action to cover statutory penalties.

Georgia

Early Offer of Settlement – S.B. 239

Provided that a party declining a settlement offer is potentially liable for attorneys' fees and court costs. S.B. 239 established that a plaintiff who rejects an offer of settlement would be liable for attorneys' fees and litigation costs if the defendant is found not liable or the final judgment in favor of the plaintiff is 75 percent of the settlement offer. A defendant who rejects a plaintiff's offer of settlement would be liable for attorneys' fees and litigation costs if the plaintiff recovers a final judgment which is 125 percent greater than the offer of settlement.

Hawaii

Appeal Bond Reform – H.B. 3250

Limited the appeal bond to \$25 million, regardless of the amount of judgment. Provided a provision for small businesses that limits the appeal bond to \$1 million.

Indiana

Jury Service Reform – S.B. 232

Made the following changes to improve the jury system: (1) provided a one-time postponement to another date within one year upon a showing of hardship, extreme inconvenience, or necessity; (2) protected an individual called for jury service who provides reasonable notice to his or her employer from being subjected to adverse employment action; (3) prohibited employers from requiring or requesting employees to use annual leave for jury service. In addition, the legislation eliminated automatic postponement from jury service including those for ferry-keepers and persons employed in attendance at such ferry, people age 65 and older, government officials, legislators, armed services, veterinarians, dentists, Indianapolis School Board members, and police and fire department members.

Medical Liability Reform/Punitive Damages – S.B. 0296

Permitted the Attorney General's office to negotiate and compromise the portion of a punitive damages award that is to be paid to the state. Provided that the state's interest in a punitive damages award is effective when a finder of fact announces a verdict that includes punitive damages.

Obesity Litigation Reform– H.B. 1113

Exempted from civil liability manufacturers, producers, packers, distributors, carriers, holders, sellers, marketers, and advertisers of food (as defined in 21U.S.C. 321 (f)) or an association of one or more such entities for claims arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or other generally known conditions allegedly caused or likely to result from the long-term consumption of food. The liability exemption does not apply if the claim is based on a material violation of a state or federal adulteration or misbranding requirement. The liability exemption also does not apply for any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling or sale of food and the violation was committed knowingly and willfully

Kansas

Asbestos / Silica Litigation Reform – S.B. 512

Established minimum medical criteria for the filing of asbestos and silica claims.

Mississippi

Jury Patriotism – S.B. 2488

Postponed the enactment of the jury service portion of H.B. 13 (2004) until January 1, 2008. H.B. 13 established a lengthy trial fund to compensate jurors up to \$300 per day, starting on the eleventh day of service. In such circumstances, jurors who can show hardship may also receive compensation of up to \$100 per day from the fourth through tenth days of service. Specified circumstances under which jurors may be excused from service. Provided for penalties for those who fail to appear: fines up to \$500 and/or three days imprisonment, or alternatively community service.

South Carolina

Asbestos / Silica Litigation Reform – S. 1038

Established minimum medical criteria (based on the AMA guide to the evaluation of permanent impairment) for the filing of asbestos and silica claims. Extended the statute of limitations to when an exposed person discovers or should have discovered his or her physical impairment.

Asbestos / Successor Liability Reform – S. 1163

Limited successor asbestos-related liability to the fair market value or the total gross assets of the transferor determined at the time of the merger or consolidation. Provided methods for determining fair market value.

Tennessee

Silica Litigation Reform – S.B. 3539

Established minimum medical criteria for the filing of silica cases. Required a claimant to submit a written report from a qualified medical authority within 30 days of filing a silica complaint. Allowed for premises liability reform.

Washington

Medical Liability Reform/ Expressions of Sympathy – H.B. 2292

Provided that expressions of sympathy, regret, apology, etc. by healthcare providers are inadmissible as evidence and shall not constitute an admission of liability.

Medical Liability Reform/Statute of Repose – H.B. 2292

Reenacted the eight-year statute of repose for medical liability cases.

Medical Liability Reform/Voluntary Arbitration – H.B. 2292

Allowed parties in an action to elect to submit the dispute to arbitration.

Medical Liability Reform/Collateral Source Rule – H.B. 2292

Provided for the admissibility of evidence that the plaintiff has already been compensated for the injury from any source except for the assets of the plaintiff, plaintiff's representative, or the plaintiff's immediate family. Plaintiff may also present evidence of an obligation to repay any compensation.

Medical Liability Reform/Frivolous Lawsuits – H.B. 2292

Provided that an attorney filing a claim must certify that to the best of the party's or attorney's knowledge, the claim is well grounded in fact and is warranted by existing law or good faith arguments. If an attorney is found in violation of this rule, the court may impose an appropriate sanction to include an order to pay defendant costs, including a reasonable attorney fee.

Firefighter/Peer Support Group Privilege– H.B. 2366

Provided that certain communications between firefighters and peer support group counselors are privileged.

Appeal Bond Reform– S.B. 6541

Limited appeal bonds for signatories to the Master Settlement Agreement to \$100 million.

West Virginia

Pre/Post-Judgment Interest Reform– S.B. 576

Established that the rate for pre-and post-judgment interest may not exceed 11 percent per year or by less than 7 percent per year.

Wisconsin

Medical Liability Reform/Noneconomic Damage Limits – A.B. 1073

Limited noneconomic damages in medical liability cases to \$750,000.

Obesity Litigation Reform – S.B. 161

Exempted from civil liability manufacturers, producers, packers, distributors, carriers, holders, sellers, marketers, and advertisers of food (as defined in 21 U.S.C. 321 (f)) or an association of one or more such entities for claims arising out of weight gain, obesity, a health condition associated with weight gain or obesity, or other generally known conditions allegedly caused or likely to result from the long-term consumption of food. The liability exemption does not apply if the claim is based on a material violation of a state or federal adulteration or misbranding requirement. The liability exemption also does not apply for any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling or sale of food and the violation was committed knowingly and willfully