



American Tort Reform Association

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2009 State Tort Reform Enactments

(as of December 23, 2009)

Arizona

Medical Liability Reform – S.B. 1018

Raised the burden of proof in medical liability actions against healthcare providers and hospitals to clear and convincing evidence in connection with certain emergency medical services.

California

Good Samaritan Reform – A.B. 83

Provided non-medical Good Samaritans the same liability protections afforded medical Good Samaritans. The bill stemmed from the California Supreme Court's ruling in *Van Horn v. Watson*, in which Lisa Torti rescued Alexandra Van Horn from a vehicle involved in an accident, and, in doing so, might have caused Ms. Van Horn's subsequent paralysis. The Court determined that Health and Safety Code Section 1799.102 provides liability protection only to medical professionals who provide emergency medical care. The Court's interpretation meant that though Ms. Torti may have reasonably believed that removing Ms. Van Horn from a potentially explosive car was necessary to save her life, Ms. Torti may still be sued for injuries allegedly caused by the rescue. A.B. 83 amended Health and Safety Code Section 1799.102 to ensure that it provides liability protections to all people, both medical and laypeople, who help out in good faith at the scene of an emergency

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 of a class certification.

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 and obesity-related illnesses.

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.