



American Tort Reform Association

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TORT REFORM PACKAGES ENACTED IN 1987

Alabama's Tort Reform Package:

- caps punitive damages at \$250,000;

(The Alabama Supreme Court held the \$250,000 limit on punitive damages unconstitutional in Craig Henderson v. Alabama Power Co., case No. 1901875, June 25, 1993.)

- requires trial and appellate judges to review all punitive damage awards reducing those that are excessive based on the facts of the case; (Chapter 87-185)

(The Alabama Supreme Court held the judicial review of all awards unconstitutional in Armstrong v. Roger's Outdoor Sports, Inc., May 10, 1991)

- allows the jury to be informed if medical bills and/or lost wages have been paid by a third party; (Chapter 87-187)

- allows court to assess court costs and attorney fees against parties bringing frivolous suits; (Chapter 87-186)

- provides a \$250,000 cap on non-economic damages in medical malpractice cases. (The medical malpractice bill also caps wrongful death damages at \$1 million, provides for qualifications for expert witnesses, establishes counter suit procedures, repeals the collateral source rule, and provides for periodic payment of future damages); (Chapter 87-189)

(The Alabama Supreme Court held the periodic payment provision unconstitutional in Billy Ray Clark and Halliburton Industrial Services Division v. Container Corp. of America Inc., No. 1900325, September 27, 1991)

- abolishes the scintilla rule and substitutes the substantial evidence rule (Alabama was the only state still using the scintilla of evidence rule); (Chapter 187-184)

- provides judges the power to spread payments over a period of 15 years if in the best interest of both parties; (chapter 87-183)

- repeals Alabama's affirmance fee rule which assessed a fee of 10% of the judgment

against defendants (not plaintiffs) who appealed cases and lost; (Chapter 87-188)

- amends the constitution to remove double standards between foreign corporations and domestic corporations; (Chapter 87-164)
- gives judges the authority to refuse out-of-state cases on the basis of convenience or inconvenience to parties and witnesses and allows judge to transfer to most appropriate court; (Chapter 87-181 & 182)

The 1987 Texas Package (S.B. 5):

- allows courts to impose sanctions on attorneys and parties who file frivolous lawsuits;
- preserves the current law that disallows recovery of damages in negligence cases if the plaintiff is more than 50% responsible for his injuries and extends those provisions to include negligence cases for financial damages against professionals;
- disallows recovery of damages against the manufacturer, distributor, or retailer of a product if the plaintiff is 60% or more responsible for his injuries;
- modifies the general rules of joint and several liability to protect parties who are minimally responsible for an injury (20% or less responsible) from being forced to pay all of the damages awarded against other defendants. A minimally responsible party could be required to pay all of the damages if the injuries resulted from pollution of the environment or from exposure to a hazardous substance;
- allows punitive damages to be awarded against a particular defendant if the plaintiff shows that the defendant's conduct was fraudulent, malicious or grossly negligent;
- caps the amount of punitive damages at four times the amount of actual damages or \$200,000, whichever is greater;
- protects public servants from personal liability for harm resulting from the performance of their duties for the state;
- limits the liability of charitable organizations and their employees to \$500,000 for each person; \$1,000,000 for each occurrence of bodily harm, and \$100,000 for each occurrence of property damage. Makes volunteers immune from liability for harm resulting from the performance of their duties for a charitable organization; (S.B. 9)
- limits the period during which prejudgment interest may accrue if the defendant has made an offer to settle the lawsuit (S.B. 6);
- allows shareholders of a corporation to vote to exempt their directors from personal liability. (S.B. 5)