

SENATE BILL NO. 200

1/22 Introduced
1/23 Referred to Judiciary
2/05 Hearing
2/20 Committee Report-Bill Pass As Amended
2/23 2nd Reading Pass As Amended
2/25 3rd Reading Pass

Transmitted to House

2/27 Referred to Judiciary
3/18 Hearing
Died in Committee

1 *Senate* BILL NO. *200*
 2 INTRODUCED BY *Travis Lane, Alan Hammer, Hirsch, Goodwin, Conroy, M. Williams, Miller, Williams*
 3 *LANE* *Molan* *Boyer* *M. Williams* *Miller* *Williams*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING PUNITIVE
 5 DAMAGES IN CIVIL ACTIONS; AMENDING SECTION 27-1-221, MCA;
 6 AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE
 7 EFFECTIVE DATE."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 27-1-221, MCA, is amended to read:

10 "27-1-221. When exemplary damages allowed. (1) In any
 11 action for a breach of an obligation not arising from
 12 contract where the defendant has been guilty of oppression,
 13 fraud, or malice, actual or presumed, the jury, in addition
 14 to the actual damages, may give damages for the sake of
 15 example and by way of punishing the defendant.

16 (2) The jury may not award exemplary or punitive
 17 damages in excess of three times the amount of actual
 18 damages awarded or 5% of the net worth of each defendant,
 19 whichever is less."

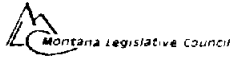
20 NEW SECTION. Section 2. Severability. If a part of
 21 this act is invalid, all valid parts that are severable from
 22 the invalid part remain in effect. If a part of this act is
 23 invalid in one or more of its applications, the part remains
 24 in effect in all valid applications that are severable from
 25

1 the invalid applications.

2 NEW SECTION. Section 3. Applicability. This act
 3 applies to any proceeding begun after or pending on the
 4 effective date of this act that has not been submitted to a
 5 jury on [the effective date of this act].

6 NEW SECTION. Section 4. Effective date. This act is
 7 effective on passage and approval.

-End-



-2- INTRODUCED BILL
 SB 200

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 200

INTRODUCED BY CHRISTIAENS, ASAY, PECK, KEATING,
TVEIT, H. HAMMOND, HIRSCH, GOODOVER, CONOVER,
LANE, MOHAR, BOYLAN, MCCALLUM, MILLER, ABRAMS

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING PUNITIVE
DAMAGES IN CIVIL ACTIONS; AMENDING SECTION 27-1-221, MCA;
AND PROVIDING AN APPLICABILITY DATE ~~AND AN IMMEDIATE~~
~~EFFECTIVE-DATE.~~"

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any action for a breach of an obligation not arising from
contract where the defendant has been guilty of oppression,
fraud, or malice, actual or presumed, the jury, in addition
to the actual damages, may give damages for the sake of
example and by way of punishing the defendant.

~~(2) The jury may not award exemplary or punitive
damages in excess of three times the amount of actual
damages awarded or 5% of the net worth of each defendant,
whichever is less.~~

(B) AN AWARD OF EXEMPLARY DAMAGES MUST BE SUPPORTED BY
CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT HAS BEEN
GUILTY OF OPPRESSION, FRAUD, OR MALICE, ACTUAL OR PRESUMED.

PRESUMED MALICE EXISTS WHEN A PERSON KNOWS OF FACTS WHICH
CREATE A HIGH DEGREE OF RISK OF HARM TO THE SUBSTANTIAL
INTERESTS OF ANOTHER, AND EITHER DELIBERATELY PROCEEDS TO
ACT IN CONSCIOUS DISREGARD OF OR INDIFFERENCE TO THAT RISK,
OR RECKLESSLY PROCEEDS IN UNREASONABLE DISREGARD OF OR IN
INDIFFERENCE TO THAT RISK.

(2) IF A PLAINTIFF SOUGHT EXEMPLARY DAMAGES AT TRIAL,
BUT SUCH DAMAGES WERE NOT AWARDED, THE COURT SHALL SUBMIT TO
THE JURY A QUESTION CONCERNING WHETHER THE JURY FOUND IN THE
EVIDENCE PRESENTED ANY BASIS IN FACT FOR SEEKING EXEMPLARY
DAMAGES. IF NO JURY HAS BEEN IMPANELED, THE COURT SHALL MAKE
A SEPARATE FINDING ON THE QUESTION. IF THE RESPONSE TO THE
QUESTION IS NEGATIVE, THE COURT MAY, IN ITS DISCRETION,
ASSESS DAMAGES AGAINST THE PLAINTIFF IN AN AMOUNT NOT TO
EXCEED WHAT IS DETERMINED BY THE COURT TO BE REASONABLE
ATTORNEY FEES OF THE DEFENDANT INCURRED IN DEFENSE OF SUCH
CLAIM."

NEW SECTION. Section 2. Severability. If a part of
this act is invalid, all valid parts that are severable from
the invalid part remain in effect. If a part of this act is
invalid in one or more of its applications, the part remains
in effect in all valid applications that are severable from
the invalid applications.

NEW SECTION. Section 3. Applicability. This act
applies to any proceeding begun after or pending on the

SB 0200/02

1 effective date of this act that has not been submitted to a
2 jury on [the effective date of this act].

3 ~~NEW SECTION: Section 4. Effective date. This act is~~
4 ~~effective on passage and approval.~~

-End-

1 SENATE BILL NO. 200

2 INTRODUCED BY CHRISTIAENS, ASAY, PECK, KEATING,
3 TVEIT, H. HAMMOND, HIRSCH, GOODOVER, CONOVER,
4 LANE, MOHAR, BOYLAN, MCCALLUM, MILLER, ABRAMS

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING PUNITIVE
7 DAMAGES IN CIVIL ACTIONS; AMENDING SECTION 27-1-221, MCA;
8 AND PROVIDING AN APPLICABILITY DATE AND--AN---IMMEDIATE
9 EFFECTIVE-DATE."

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17 to the actual damages, may give damages for the sake of
18 example and by way of punishing the defendant.

19 ~~(2) The jury may not award exemplary or punitive~~
20 ~~damages in excess of three times the amount of actual~~
21 ~~damages awarded or 5% of the net worth of each defendant,~~
22 ~~whichever is less.~~

23 (B)(2) AN AWARD OF EXEMPLARY DAMAGES MUST BE SUPPORTED
24 BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT HAS BEEN
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1 PRESUMED MALICE EXISTS WHEN A PERSON KNOWS, OR HAS REASON TO
2 KNOW, OF FACTS WHICH CREATE A HIGH DEGREE OF RISK OF HARM TO
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23 the invalid applications.

24 NEW SECTION. Section 3. Applicability. This act
25 applies to any proceeding begun CLAIM ARISING after or

1 pending-on-the-effective-date-of-this-act-that-has-not--been
2 submitted--to--a--jury--on--{the-effective-date-of-this-act}
3 OCTOBER 1, 1985.

4 NEW SECTION. Section 4. Effective date. This act is
5 effective on passage and approval.

-End-