

Senate Bill 876

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies law relating to offset of collateral benefits in tort actions.

Provides that if award of damages is made for personal injury or death, and before entry of verdict person who was injured or died received benefits by reason of injury or death from source other than defendant, upon motion court must deduct amount of benefits from money award.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to damages; creating new provisions; amending ORS 31.580 and 31.710; and declaring an
3 emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 31.580 is amended to read:

6 31.580. (1) In a civil action, when a party is awarded damages for bodily injury or death of a
7 person *[which]* **that** are to be paid by another party to the action, and the party awarded damages
8 or person injured or deceased **has** received benefits *[for]* **by reason of** the injury or death **from a**
9 **source** other than *[from]* the party who is to pay the damages, the court *[may]* **shall** deduct from
10 the amount of damages awarded, before the entry of a judgment, the total amount of those collateral
11 benefits other than:

12 (a) Benefits *[which]* **that** the party awarded damages, the person injured or that person's estate
13 is obligated to repay, **including but not limited to Medicare benefits, medical assistance pro-**
14 **vided under ORS chapter 414 and medical assistance provided under the State Children's**
15 **Health Insurance Program;**

16 (b) Life insurance or other death benefits;

17 (c) **Health** insurance or **disability** benefits *[for which]* **to the extent those benefits do not**
18 **exceed the sum of the premiums paid to provide the benefits by** the person injured or deceased
19 **or by members of** *[that]* **the** person's family *[paid premiums]* **during the 10-year period imme-**
20 **diately preceding the injury or death;** and

21 (d) Retirement **benefits**, *[disability and]* pension plan benefits[,] and federal Social Security **re-**
22 **tirement income** benefits.

23 (2) Evidence of the benefit described in subsection (1) of this section and the cost of obtaining
24 it is not admissible at trial, but shall be received by the court by affidavit submitted after the ver-
25 dict by any party to the action.

26 **SECTION 2.** ORS 31.710 is amended to read:

27 31.710. (1) Except for claims subject to ORS 30.260 to 30.300 and ORS chapter 656, in any civil
28 action seeking damages arising out of bodily injury, including emotional injury or distress, death or
29 property damage of any one person including claims for loss of care, comfort, companionship and
30 society and loss of consortium, the amount awarded for noneconomic damages shall not exceed

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 \$500,000.

2 (2) As used in this section:

3 (a) "Economic damages" means objectively verifiable monetary losses including but not limited
4 to reasonable charges necessarily incurred for **the actual costs of services paid by or on behalf**
5 **of the claimant for** medical, hospital, nursing and rehabilitative services and other health care
6 services, burial and memorial expenses, loss of income and past and future impairment of earning
7 capacity, reasonable and necessary expenses incurred for substitute domestic services, recurring loss
8 to an estate, damage to reputation that is economically verifiable, reasonable and necessarily in-
9 curred costs due to loss of use of property and reasonable costs incurred for repair or for replace-
10 ment of damaged property, whichever is less.

11 (b) "Noneconomic damages" means subjective, nonmonetary losses, including but not limited to
12 pain, mental suffering, emotional distress, humiliation, injury to reputation, loss of care, comfort,
13 companionship and society, loss of consortium, inconvenience and interference with normal and
14 usual activities apart from gainful employment.

15 (3) This section does not apply to punitive damages.

16 (4) The jury shall not be advised of the limitation set forth in this section.

17 **SECTION 3. The amendments to ORS 31.580 and 31.710 by sections 1 and 2 of this 2011**
18 **Act apply only to causes of action arising on or after the effective date of this 2011 Act.**

19 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**
20 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
21 **on its passage.**

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