

HB 2014 STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski, Sen. Fagan

Senate Committee On Judiciary

Action Date: 05/21/19
Action: Do pass.
Vote: 4-3-0-0
Yeas: 4 - Fagan, Gelser, Manning Jr, Prozanski
Nays: 3 - Bentz, Linthicum, Thatcher
Fiscal: No fiscal impact
Revenue: No revenue impact
Prepared By: Channa Newell, Counsel
Meeting Dates: 5/6, 5/7, 5/21

WHAT THE MEASURE DOES:

Removes the \$500,000 cap on awards of noneconomic damages for actions arising out of bodily injury. Retains the \$500,000 cap on awards for damages arising out of wrongful death claims. Relocates definition of "economic damages" and "noneconomic damages" in statute. Applies to claims for which a final judgment has not been entered. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Differences between economic damages, noneconomic damages, and punitive damages
- Recent case law on damages cap
- History of caps on noneconomic damages
- Examples of noneconomic damage awards reduced due to cap

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon law separately addresses the types of damages awarded in civil actions. Economic damages are objectively verifiable monetary losses, such as medical or hospital expenses, loss of income and future earning impairment, and costs to replace damaged property. Noneconomic damages are subjective nonmonetary losses, including pain, mental suffering, emotional distress, injury to reputation, loss of care, comfort and companionship, and interference with normal activities aside from employment.

Article 1, Section 10 of the Oregon Constitution states, "No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation." In 2016, an Oregon Supreme Court case analyzed the remedy provisions in Article 1, Section 10, and limited recovery on all noneconomic damages to \$500,000 (*Horton v. OHSU*, 359 Or 168 (2016)).

House Bill 2014 removes the \$500,000 statutory cap on noneconomic damages for claims arising out of bodily injury and retains the cap for those arising out of wrongful death. The measure applies to actions that have not yet exhausted the appeals process.