

SUBJECT: Allowing estates to recover exemplary damages for wrongful death

COMMITTEE: Business & Industry — favorable, without amendment

VOTE: 7 ayes — Longoria, Vasut, Cole, Frazier, González, Hinojosa, Neave Criado

0 nays

2 absent — Isaac, Lambert

WITNESSES: For — Laura Tamez, Texas Trial Lawyers Association; Tamara Fitzgerald; Robert Hand (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas; James Parnell, Dallas Police Association; Larry Young, Game Warden Peace Officers Association; Ray Hunt, HPOU; Emily Amps, Texas AFL-CIO; John Wilkerson, Texas Municipal Police Association; Jill Sutton, Texas Osteopathic Medical Assn)

Against — (*Registered, but did not testify*: Steve Koebele, American Property Casualty Insurance Association; Jon Schnautz, National Association of Mutual Insurance Companies; Lucinda Saxon, TX Cotton Ginners Trust)

BACKGROUND: The Labor Code sec. 408.001 establishes that being a beneficiary of workers' compensation benefits does not prohibit the recovery of exemplary damages by the surviving spouse or heirs of the body of a deceased employee whose death was caused by an intentional act or omission of the employer or by the employer's gross negligence.

Some have suggested that current law does not allow the estate of a deceased employee to bring a cause of action for wrongful death.

DIGEST: HB 102 would amend Labor Code sec. 408.001 to allow for the estate of a deceased employee whose death was caused by an intentional act or omission of the employer or by the employer's gross negligence to recover

exemplary damages.

The bill would take effect September 1, 2023 and only would apply to a claim for workers' compensation benefits based on a compensable injury that occurred on or after the effective date.