

BILL ANALYSIS

Senate Research Center

S.B. 755
By: Haywood
Economic Development
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As Filed

DIGEST

Currently, juries may impose damages to punish a defendant for malicious or intentional misconduct and to deter others from the misconduct. The Supreme Court of Texas recently held that repeated awards of punitive damages for the same conduct are unconstitutional when the aggregate sum is “grossly excessive to the state’s legitimate interest in punishment and deterrence.” Texas law does not limit repeated punishment. An American Law Institute Committee noted: “substantial payments for earlier punitive awards may strip the firm of its insurance coverage and assets, thus endangering the ability of later claimants to realize their fundamental tort right to compensatory redress.” S.B. 755 would require the amount of exemplary damages awarded against a defendant to be reduced by the total amount of exemplary damages previously awarded against the defendant by any state or federal court in any jurisdiction if a defendant has previously paid damages or been held liable for the same course or acts.

PURPOSE

As proposed, S.B. 755 provides limitations on repetitive awards of exemplary damages.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 41.001, Civil Practices and Remedies Code, by adding Subdivision 8, to define “same course of conduct” as acts or omission, or a series of acts or omission, that cause or contribute to causing the same or substantially similar risks of harm. Provides that in products liability actions, the term includes substantially the same defects in design, substantially the same manufacturing defects, or failures to warn of substantially the same hazards with respect to substantially similar units of product. Provides that a course of conduct is not dissimilar merely because it results in harm to different property or persons.

SECTION 2. Amends Subsections (a) and (b), Section 41.002, Civil Practice and Remedies Code, to provide that this chapter applies to any action in which a claimant seeks exemplary damages relating to a cause of action under the laws of this state or any other state. Deletes text regarding another law of this state. Makes a conforming change.

SECTION 3. Amends Section 41.008, Civil Practice and Remedies Code, by amending Subsection (e) and adding Subsection (f), to require the amount of exemplary damages awarded against a defendant to be reduced by the total amount of exemplary damages previously awarded against the defendant by any state or federal court in any jurisdiction for that course of conduct or acts, if a defendant has paid damages for or has been held liable for exemplary damages for the same course or acts made the subject of the claimant’s claim. Requires the limitation prescribed by this subsection to be applied after the limitation prescribed by Subsection (b). Requires the court to receive evidence outside the presence of the jury concerning previous payments and judgments for exemplary damages made by or entered against the defendant. Prohibits provisions of Subsections (a), (b), and (e) from being made known to a jury by any means, including voir dire, introduction into evidence, argument, or instruction.

SECTION 4. Effective date: September 1, 1999.

SECTION 5. Emergency clause.

