

APR 13 1998

JUDICIARY

HOUSE FILE 2556
BY CHURCHILL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the reduction of a punitive damage award
2 that duplicates other awards of punitive damages arising from
3 the same act or course of conduct.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2556

1 Section 1. NEW SECTION. 668A.2 MULTIPLE AWARDS FOR SAME
2 ACT OR COURSE OF CONDUCT.

3 1. A defendant against whom punitive or exemplary damages
4 have been awarded pursuant to section 668A.1 may file a
5 separate written motion with the court seeking to have the
6 amount of such damages reduced by the court when all of the
7 following facts exist:

8 a. The defendant was previously sued in one or more
9 actions in state or federal court arising from the same act or
10 course of conduct as the present action. Allegations of
11 substantially the same manufacturing defect, unsafe design, or
12 inadequate warning or labeling of similar units of the same
13 product in both the present and any previous actions shall be
14 deemed to arise from the same act or course of conduct.

15 b. Punitive damages were awarded against the defendant in
16 one or more of the previous actions described under paragraph
17 "a".

18 2. The motion shall be filed within the time permitted for
19 the filing of a motion for a new trial, and shall set forth
20 the following:

21 a. The facts and theories of liability involved in the
22 previous cases.

23 b. The amount of punitive damages awarded in each previous
24 case.

25 c. The reasons and amount by which the current award of
26 punitive or exemplary damages duplicates the punitive damages
27 awarded in the previous actions.

28 d. Any other evidence relevant to the determination of the
29 court in reducing damages.

30 The defendant shall include with the motion certified
31 copies of judgments in the previous actions, as well as
32 relevant pleadings and other documents that demonstrate the
33 duplicative nature of the punitive damage award in the present
34 action.

35 3. The party awarded the punitive damages may file a

1 responsive motion prior to the hearing on the defendant's
2 motion.

3 4. Upon the proper filing of a motion under this section,
4 the court shall schedule a hearing, and shall determine
5 whether the liability for the punitive or exemplary damages
6 arose out of the same act or course of conduct as in the
7 previous action or actions, and the extent, if any, to which
8 the present award of punitive or exemplary damages duplicates
9 the total amount of punitive damages awarded in the previous
10 actions.

11 a. The court may consider the facts of the previous cases,
12 the bases of liability for the previous punitive damages
13 awards, the purposes for which the awards were made, how the
14 awards were determined or calculated, and any other evidence
15 offered by the parties that is relevant to the issue of
16 whether the defendant is subject to duplicative awards of
17 punitive damages.

18 b. The court shall reduce the present award of punitive or
19 exemplary damages in accordance with this section, and shall
20 enter its findings and the basis for its decision in the
21 record.

22 5. The decision of the trial court on the issue of
23 reduction of damages may be appealed according to the rules of
24 appellate procedure. If the appellate court determines that
25 the decision of the trial court in reducing the punitive
26 damage award, or failing to reduce the punitive damage award,
27 was clearly erroneous in light of the record, it shall reverse
28 the decision of the trial court, and enter appropriate orders.

29 6. The court may stay entry of judgment or execution on
30 the punitive damage award pending a hearing and decision under
31 subsection 4, and enter any other orders as necessary to avoid
32 prejudice or delay. The court may enter a similar stay on
33 execution on the punitive damage award, in addition to any
34 appropriate conditions, pending appeal of the issue if the
35 defendant has made a prima facie showing of the elements in

1 subsection 1.

2 7. The possibility of reduction of punitive or exemplary
3 damage awards pursuant to this section shall not be disclosed
4 to the jury.

5 Sec. 2. APPLICABILITY. This Act shall apply to the trial
6 of any civil action that commences on or after the effective
7 date of this Act.

8 EXPLANATION

9 This bill provides that a defendant who is presently
10 subject to an award of punitive damages, and who has
11 previously been subject to one or more awards of punitive
12 damages in one or more actions arising from the same act or
13 course of conduct, may file a motion with the court after
14 judgment, seeking to reduce the present punitive damage award
15 to the extent that it duplicates previous awards.

16 The bill sets forth the issues that must be addressed in
17 the motion, as well as the documents that must be included
18 with the filing of such motion. It provides for a responsive
19 motion by the party who was awarded the punitive damages.

20 The bill provides that, upon motion, the court shall
21 schedule a hearing on the issue, and shall determine whether
22 the liability arose out of the same act or course of conduct
23 as in the previous action or actions, and the extent to which
24 the present punitive damage award duplicates the previous
25 awards. Issues for the court's consideration in making such
26 determinations are addressed in the bill.

27 The bill provides for an appeal of the decision on the
28 issue, and permits the court to issue a stay on execution of
29 the punitive damage award under certain conditions.

30 The bill provides that the possibility of reduction of a
31 punitive damage award under this section shall not be
32 disclosed to the jury.

33 The bill applies to all civil trials commencing on or after
34 the effective date of the Act.

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