

ENGROSSED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 421

(By Senators Trump, Carmichael,
Blair and Gaunch)

[Originating in the Committee on the Judiciary;
reported February 13, 2015.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating generally to treatment of punitive damages in civil actions; providing for limitations on punitive damages in civil actions; providing for when punitive damages may be awarded in civil actions; and providing for a bifurcated trial, upon request, for

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civil actions involving punitive damages.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §55-7-27, to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-27. Limitations on punitive damages.

1 (a) An award of punitive damages may only occur in
2 a civil action against a defendant if a plaintiff establishes by
3 clear and convincing evidence that the damages suffered were
4 the result of the conduct that was carried out by the defendant
5 with actual malice toward the plaintiff or a conscious,
6 reckless and outrageous indifference to the health, safety and
7 welfare of others.

8 (b) Any civil action tried before a jury involving
9 punitive damages shall, upon request of any defendant, be

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1 conducted in a bifurcated trial in accordance with the
2 following guidelines:

3 (1) In the first stage of a bifurcated trial, the jury shall
4 determine liability for compensatory damages and the amount
5 of compensatory damages, if any.

6 (2) If the jury finds during the first stage of a
7 bifurcated trial that a defendant is liable for compensatory
8 damages, then the court shall determine whether sufficient
9 evidence exists to proceed with a consideration of punitive
10 damages.

11 (3) If the court finds that sufficient evidence exists to
12 proceed with a consideration of punitive damages, the same
13 jury shall determine if a defendant is liable for punitive
14 damages in the second stage of a bifurcated trial and may
15 award such damages.

16 (4) If the jury returns an award for punitive damages

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1 that exceeds the amounts allowed under subsection (c) of this
2 section, the court shall reduce any such award to comply with
3 the limitations set forth therein.

4 (c) The amount of punitive damages that may be
5 awarded in a civil action may not exceed the greater of four
6 times the amount of compensatory damages or \$500,000,
7 whichever is greater.