

SUBJECT: Exemplary damage claims in workers' compensation cases

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 6 ayes — Bosse, Clark, Hope, Martinez Fisher, Nixon, Zbranek
0 nays
3 absent — Janek, Dutton, Smithee

WITNESSES: None

BACKGROUND: Enacted in 1995 by the 74th Legislature, Civil Practices and Remedies Code, ch. 41, establishes the maximum exemplary damages that may be awarded for a cause of action. It defines "exemplary damages" as any damages awarded as a penalty or by way of punishment, including punitive damages.

Sec. 41.002 sets forth certain cases in which the cap on exemplary damages does not apply, such as actions brought under the workers' compensation laws of Texas or cases in which another law establishes a lower maximum amount of exemplary damages for a particular claim.

The Texas Constitution, Art. 16, sec. 26, holds every person, corporation, or company that commits a homicide, through wilful act, omission, or gross neglect, responsible for exemplary damages to the surviving spouse or heirs.

Labor Code, sec. 401.011, defines an employer as a person who makes a contract of hire, employs one or more employees, and has workers' compensation insurance coverage.

DIGEST: HB 2537 would amend Civil Practices and Remedies Code, sec. 41.002 by specifically exempting from maximum exemplary damages certain actions against an employer by an employee's surviving spouse or heirs in a death action arising out of the course and scope of the employee's job. In actions for a work-related death, employers who subscribe to workers' compensation law would not be subject to maximum limits for exemplary damages.

HB 2537
House Research Organization
page 2

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS
SAY:

HB 2537 would bring the code in line with legislative intent. The original legislation was designed help curb abuses of the Texas tort system. At that time, awards of punitive damages, which may bear no relationship to the amount of real harm done, were soaring, and the Legislature sought to curb amounts awarded. The legislation, however, never was intended to apply to wrongful death actions against employers.

HB 2537 would bring the code in line with the Constitution. The Texas Constitution specifically holds every person, corporation, or company that commits a homicide through a wilful act, omission, or gross neglect responsible for exemplary damages to the spouse or heirs.

OPPONENTS
SAY:

No apparent opposition.