

1 **Punitive Damages Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

2
3 **LONG TITLE**

4 **General Description:**

5 This bill modifies provisions related to punitive damages.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ removes the requirement for the state to collect a portion of punitive damage payments
9 that are received in certain driving under the influence cases.

10 **Money Appropriated in this Bill:**

11 None

12 **Other Special Clauses:**

13 None

14 **Utah Code Sections Affected:**

15 AMENDS:

16 **78B-8-201**, as last amended by Laws of Utah 2011, Chapter 79

17
18 *Be it enacted by the Legislature of the state of Utah:*

19 Section 1. Section **78B-8-201** is amended to read:

20 **78B-8-201 . Basis for punitive damages awards -- Section inapplicable to DUI**
21 **cases or providing illegal controlled substances -- Division of award with state for some**
22 **judgments.**

23 (1)(a) Except as otherwise provided by statute, punitive damages may be awarded only
24 if compensatory or general damages are awarded and it is established by clear and
25 convincing evidence that the acts or omissions of the tortfeasor are the result of
26 willful and malicious or intentionally fraudulent conduct, or conduct that manifests a
27 knowing and reckless indifference toward, and a disregard of, the rights of others.

28 (b) The limitations, standards of evidence, and standards of conduct of Subsection (1)(a)
29 do not apply to any claim for punitive damages arising out of the tortfeasor's:

30 (i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under
31 the influence of any drug or combination of alcohol and drugs as prohibited by

- 32 Section 41-6a-502;
- 33 (ii) causing death of another person by providing or administering an illegal
34 controlled substance to the person under Section 78B-3-801; or
- 35 (iii) providing an illegal controlled substance to any person in the chain of transfer
36 that connects directly to a person who subsequently provided or administered the
37 substance to a person whose death was caused in whole or in part by the substance.
- 38 (c) The award of a penalty under Section 78B-3-108 regarding shoplifting is not subject
39 to the prior award of compensatory or general damages under Subsection (1)(a)
40 whether or not restitution has been paid to the merchant prior to or as a part of a civil
41 action under Section 78B-3-108.
- 42 (2) Evidence of a party's wealth or financial condition shall be admissible only after a
43 finding of liability for punitive damages has been made.
- 44 (a) Discovery concerning a party's wealth or financial condition may only be allowed
45 after the party seeking punitive damages has established a prima facie case on the
46 record that an award of punitive damages is reasonably likely against the party about
47 whom discovery is sought and, if disputed, the court is satisfied that the discovery is
48 not sought for the purpose of harassment.
- 49 (b) Subsection (2)(a) does not apply to any claim for punitive damages arising out of the
50 tortfeasor's:
- 51 (i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under
52 the influence of any drug or combination of alcohol and drugs as prohibited by
53 Section 41-6a-502;
- 54 (ii) causing death of another person or causing a person to be addicted by providing
55 or administering an illegal controlled substance to the person under Section
56 78B-3-801; or
- 57 (iii) providing an illegal controlled substance to any person in the chain of transfer
58 that connects directly to a person who subsequently provided or administered the
59 substance to a person whose death was caused in whole or in part by the substance.
- 60 (3) This Subsection (3) applies to a judgment entered on or before May 10, 2025.
- 61 (a) In ~~[any]~~ a case where punitive damages are awarded, the court shall enter judgment as
62 follows:
- 63 (i) for the first \$50,000, judgment shall be in favor of the injured party; and
64 (ii) any amount in excess of \$50,000 shall be divided equally between the state and
65 the injured party, and judgment to each entered accordingly.

- 66 (b)(i) The actual and bona fide attorney fees and costs incurred in obtaining and
67 collecting the judgment for punitive damages shall be considered to have been
68 incurred by the state and the injured party in proportion to the judgment entered in
69 each party's behalf.
- 70 (A) The state and injured party shall be responsible for each one's proportionate
71 share only.
- 72 (B) The state is liable to pay its proportionate share only to the extent it receives
73 payment toward its judgment.
- 74 (ii) If the court awards attorney fees and costs to the injured party as a direct result of
75 the punitive damage award, the state shall have a corresponding credit in a
76 proportionate amount based on the amounts of the party's respective punitive
77 damage judgments. This credit may be applied as an offset against the amount of
78 attorney fees and costs charged to the state for obtaining the punitive damage
79 judgment.
- 80 (c) The state shall have all rights due a judgment creditor to collect the full amounts of
81 both punitive damage judgments until the judgments are fully satisfied.
- 82 (i) Neither party is required to pursue collection.
- 83 (ii) In pursuing collection, the state may exercise any of its collection rights under
84 Section 63A-3-301 et seq., Section 63A-3-502 et seq., and any other statutory
85 provisions. Any amounts collected on these judgments by either party shall be
86 held in trust and distributed as set forth in Subsection (3)(e).
- 87 (d) Unless all affected parties, including the state, expressly agree otherwise, collection
88 on the punitive damages judgment shall be deferred until all other judgments have
89 been fully paid. Any payment by or on behalf of any judgment debtor, whether
90 voluntary, by execution, or otherwise, shall be distributed and applied in the
91 following order:
- 92 (i) to the judgment for compensatory damage and any applicable judgment for
93 attorney fees and costs;
- 94 (ii) to the initial \$50,000 of the punitive damage judgment;
- 95 (iii) to any judgment for attorney fees and costs awarded as a direct result of the
96 punitive damages; and
- 97 (iv) to the remaining judgments for punitive damages.
- 98 (e) Any partial payments shall be distributed equally between the state and injured party.
- 99 (f) After the payment of attorney fees and costs, all amounts paid on the state's judgment

100 shall be remitted to the state treasurer to be deposited into the General Fund.
101 (4) A judgment entered on or after May 11, 2025, is not subject to the requirements of
102 Subsection (3).
103 Section 2. **Effective date.**
104 This bill takes effect on May 7, 2025.