

28 (c) The award of a penalty under Section 78-11-15 or 78-11-16 regarding shoplifting is
29 not subject to the prior award of compensatory or general damages under Subsection (1)(a)
30 whether or not restitution has been paid to the merchant prior to or as a part of a civil action under
31 Section 78-11-15 or 78-11-16.

32 (2) Evidence of a party's wealth or financial condition shall be admissible only after a
33 finding of liability for punitive damages has been made.

34 (3) In any judgment where punitive damages are awarded [~~and paid~~], 50% of the amount
35 of the punitive damages paid in excess of \$20,000 shall, after payment of attorneys' fees and costs,
36 be remitted to the state treasurer for deposit into the General Fund.

37 Section 2. Section **78-18-1.5** is enacted to read:

38 **78-18-1.5. Punitive damages -- Notification procedure.**

39 (1) At least seven days prior to any trial where punitive damages are requested, the plaintiff
40 shall notify the attorney general of the case, providing the names of both parties and their attorneys.
41 Notwithstanding Subsection 78-18-1(1)(a), punitive damages may not be awarded in an action if
42 the notice required by this Subsection (1) is not given.

43 (2) Any settlement reached by the parties after the notice in Subsection (1) is given shall
44 require the attorney general's or court's approval.

45 (3) The awardee shall present attorneys' fees and costs to the court for its approval, which
46 shall be made a part of the court's judgment. If a separate award for attorneys' fees and costs is
47 made, the amount may not be deducted from the remittance to the state.

48 (4) The clerk of the court shall notify the state treasurer's office within five days upon a
49 judgment award of punitive damages meeting the criteria of Subsection 78-18-1(3). The notice
50 shall contain:

51 (a) the name of the party and his attorney, against whom the judgment was ordered;

52 (b) the amount of the judgment; and

53 (c) the date on which the judgment was entered.

54 (5) Upon receipt of notification, the treasurer's office shall notify the party and his attorney
55 of the state's interest in the judgment. The state shall be treated as a party for the enforcement of
56 its share of the judgment.

57 (6) The treasurer's office may request the assistance of the attorney general in collecting
58 any amounts due the state.

Legislative Review Note
as of 1-24-02 10:55 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel