

Senator Lyle W. Hillyard proposes the following substitute bill:

PUNITIVE DAMAGE AWARDS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

This act modifies the Judicial Code, specifically clarifying that the state treasurer and attorney general shall be notified of a jury verdict or judge's order awarding punitive damages and again when judgment is entered awarding punitive damages. The act also clarifies that a reduction for attorneys' fees and costs shall be offset by any court award of attorneys' fees and costs, and based on fees and costs that are actual and reasonable.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-18-1, as last amended by Chapter 6, Laws of Utah 1991

ENACTS:

78-18-1.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-18-1** is amended to read:

**78-18-1. Basis for punitive damages awards -- Section inapplicable to DUI cases --
Division of award with state.**

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

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



26 vehicle while voluntarily intoxicated or under the influence of any drug or combination of alcohol
27 and drugs as prohibited by Section 41-6-44.

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

37 (b) For the purposes of this Subsection (3), an "allowable deduction for the payment of
38 attorneys' fees and costs" shall equal the amount of actual and reasonable attorneys' fees and costs
39 incurred by the judgment creditor, minus the amount of any separate judgment awarding attorneys'
40 fees and costs to the judgment creditor.

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

42 **78-18-1.5. Punitive damages -- Notification procedure.**

43 (1) Whenever it appears from a return of a jury verdict in any court jury trial or from entry
44 of a finding or order in any court bench trial, that punitive damages have been awarded to the
45 plaintiff in a court action, the clerk of the court shall immediately notify the attorney general and
46 state treasurer of the verdict, finding, or order. The notice shall contain:

47 (a) the names of both parties to the action, and their attorneys;

48 (b) the case number; and

49 (c) the location of the court.

50 (2) In addition to the notice required in Subsection (1) of this section, the clerk of the court
51 shall notify the attorney general and the state treasurer within five days after entry of a judgment
52 award of punitive damages. The notice shall contain:

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

54 (b) the amount of the judgment; and

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