

2SHB 2292 - H AMD 658

By Representative Priest

FAILED 1/23/2006

1 On page 49, after line 34, insert the following:

2 "NEW SECTION. **Sec. 322.** A new section is added to chapter
3 7.70 RCW to read as follows:

4 In any action brought under this chapter that is tried by jury,
5 the judge shall present the following questions to the jury after
6 the jury has delivered its verdict in the proceeding. The
7 questions shall be considered and answered by the jury in a
8 deliberative process and the results announced in open court.

9 (1) Do you as a jury believe any pleading, claim, or issue in
10 this case was frivolous? To decide that a pleading, claim, or
11 issue in this case was frivolous you must decide at least one of
12 the following in the affirmative:

13 (a) The pleading, claim, or issue was primarily filed, brought,
14 or raised by a party for an improper purpose. "Improper purpose"
15 means that the pleading, claim, or issue was filed, brought, or
16 raised with the purpose of harassing, embarrassing, or coercing
17 another party, causing unnecessary delay, or needlessly increasing
18 litigation costs.

19 (b) The pleading, claim, or issue was filed, brought, or raised
20 in bad faith. "Bad faith" means that the party either knew
21 reasonable grounds did not exist for filing, bringing, or raising
22 the pleading, claim, or issue, or the party acted with reckless
23 disregard as to whether or not reasonable grounds existed for
24 filing, bringing, or raising the pleading, claim, or issue.

25 (2) If your answers to the question in both (a) and (b) of
26 subsection (1) of this section are "No" do not proceed further. If
27 your answer is "Yes" to a question in either (a) or (b) of
28 subsection (1) of this section, you must make one of the following
29 recommendations:

1 (a) We recommend that (name of party) be required
2 to pay sanctions in the amount of dollars, payable to .
3 (name of party) as a result of filing, bringing, or raising
4 a frivolous pleading, claim, or issue.

5 (b) We do not believe that a monetary sanction should be
6 imposed against (name of party) for filing, bringing,
7 or raising a frivolous pleading, claim, or issue.

8 (3) The court shall take the jury's recommendation under
9 consideration in deciding whether to impose sanctions against a
10 party for filing, bringing, or raising a frivolous pleading, claim,
11 or issue. The court shall enter into the record written findings
12 and conclusions in accepting or rejecting the jury's
13 recommendations.

14 (4) In addition to any other remedies provided in RCW 4.84.185
15 or by court rule, sanctions that may be imposed under this section
16 at the discretion of the court for filing, bringing, or raising a
17 frivolous pleading, claim, or issue include the payment of
18 reasonable costs and reasonable attorneys' fees of the other party
19 caused in responding to the frivolous pleading, claim, or issue,
20 and a monetary penalty on the party or party's attorney who brought
21 the frivolous pleading, claim, or issue, and the firm with which
22 the attorney is employed or associated. "

EFFECT: Amends the frivolous lawsuit portion of the bill to provide that the court must ask the jury, after the jury has issued its verdict, whether or not the jury thinks a pleading, claim, or issue raised in the action was frivolous and whether a sanction should be imposed, and if so, the amount of sanction the jury recommends. Requires the court to take the jury's recommendation into consideration.