
HOUSE BILL 2506

State of Washington 65th Legislature 2018 Regular Session

By Representatives Sawyer, Kilduff, Ormsby, and Appleton

Read first time 01/10/18. Referred to Committee on Judiciary.

1 AN ACT Relating to liability for exemplary damages; amending RCW
2 4.92.090 and 4.96.010; and adding a new section to chapter 4.24 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW
5 to read as follows:

6 (1) Except as provided in RCW 4.92.090 and 4.96.010 with respect
7 to the state of Washington and local governmental entities, in a tort
8 action for damages a person may be liable for exemplary damages
9 arising out of his or her willful or wanton misconduct.

10 (2) "Exemplary damages" includes punitive damages and means any
11 damages awarded as a penalty or by way of punishment but not for
12 compensatory purposes. Exemplary damages are neither economic nor
13 noneconomic damages.

14 (3) "Wanton misconduct" is the intentional doing of an act which
15 one has a duty to refrain from doing or the intentional failure to do
16 an act which one has a duty to do, in reckless disregard of the
17 consequences and under such surrounding circumstances and conditions
18 that a reasonable person would know, or should know, that such
19 conduct would, in a high degree of probability, result in substantial
20 harm to another.

1 (4) "Willful misconduct" is the intentional doing of an act which
2 one has a duty to refrain from doing or the intentional failure to do
3 an act which one has the duty to do when one has actual knowledge of
4 the peril that will be created and intentionally fails to avert
5 injury or actually intends to cause harm.

6 **Sec. 2.** RCW 4.92.090 and 1963 c 159 s 2 are each amended to read
7 as follows:

8 (1) The state of Washington, whether acting in its governmental
9 or proprietary capacity, shall be liable for damages arising out of
10 its tortious conduct to the same extent as if it were a private
11 person or corporation except as provided in subsection (2) of this
12 section.

13 (2) The state of Washington, whether acting in its governmental
14 or proprietary capacity, is not liable for exemplary damages under
15 section 1 of this act.

16 **Sec. 3.** RCW 4.96.010 and 2011 c 258 s 10 are each amended to
17 read as follows:

18 (1)(a) All local governmental entities, whether acting in a
19 governmental or proprietary capacity, shall be liable for damages
20 arising out of their tortious conduct, or the tortious conduct of
21 their past or present officers, employees, or volunteers while
22 performing or in good faith purporting to perform their official
23 duties, to the same extent as if they were a private person or
24 corporation except as provided in (b) of this subsection. Filing a
25 claim for damages within the time allowed by law shall be a condition
26 precedent to the commencement of any action claiming damages. The
27 laws specifying the content for such claims shall be liberally
28 construed so that substantial compliance therewith will be deemed
29 satisfactory.

30 (b) Local governmental entities, whether acting in their
31 governmental or proprietary capacity, are not liable for exemplary
32 damages under section 1 of this act.

33 (2) Unless the context clearly requires otherwise, for the
34 purposes of this chapter, "local governmental entity" means a county,
35 city, town, special district, municipal corporation as defined in RCW
36 39.50.010, quasi-municipal corporation, any joint municipal utility
37 services authority, any entity created by public agencies under RCW
38 39.34.030, or public hospital.

1 (3) For the purposes of this chapter, "volunteer" is defined
2 according to RCW 51.12.035.

3 NEW SECTION. **Sec. 4.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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