

**PUNITIVE DAMAGES AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to punitive damages.

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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

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

**78B-8-201. Basis for punitive damages awards -- Section inapplicable to DUI cases or providing illegal controlled substances -- 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



28 evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or  
29 intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference  
30 toward, and a disregard of, the rights of others.

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

33 (i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under the  
34 influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6a-502;

35 (ii) causing death of another person by providing or administering an illegal controlled  
36 substance to the person under Section 78B-3-801; or

37 (iii) providing an illegal controlled substance to any person in the chain of transfer that  
38 connects directly to a person who subsequently provided or administered the substance to a  
39 person whose death was caused in whole or in part by the substance.

40 (c) The award of a penalty under Section 78B-3-108 regarding shoplifting is not  
41 subject to the prior award of compensatory or general damages under Subsection (1)(a) whether  
42 or not restitution has been paid to the merchant prior to or as a part of a civil action under  
43 Section 78B-3-108.

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

46 (a) Discovery concerning a party's wealth or financial condition may only be allowed  
47 after the party seeking punitive damages has established a prima facie case on the record that  
48 an award of punitive damages is reasonably likely against the party about whom discovery is  
49 sought and, if disputed, the court is satisfied that the discovery is not sought for the purpose of  
50 harassment.

51 (b) Subsection (2)(a) does not apply to any claim for punitive damages arising out of  
52 the tortfeasor's:

53 (i) operation of a motor vehicle or motorboat while voluntarily intoxicated or under the  
54 influence of any drug or combination of alcohol and drugs as prohibited by Section 41-6a-502;

55 (ii) causing death of another person or causing a person to be addicted by providing or  
56 administering an illegal controlled substance to the person under Section 78B-3-801; or

57 (iii) providing an illegal controlled substance to any person in the chain of transfer that  
58 connects directly to a person who subsequently provided or administered the substance to a

59 person whose death was caused in whole or in part by the substance.

60 (3) This subsection applies to a judgment entered on or before April 30, 2024.

61 (a) In any 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 the  
65 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 incurred by the  
68 state and the injured party in proportion to the judgment entered in each party's behalf.

69 (A) The state and injured party shall be responsible for each one's proportionate share  
70 only.

71 (B) The state is liable to pay its proportionate share only to the extent it receives  
72 payment toward its judgment.

73 (ii) If the court awards attorney fees and costs to the injured party as a direct result of  
74 the punitive damage award, the state shall have a corresponding credit in a proportionate  
75 amount based on the amounts of the party's respective punitive damage judgments. This credit  
76 may be applied as an offset against the amount of attorney fees and costs charged to the state  
77 for obtaining the punitive damage judgment.

78 (c) The state shall have all rights due a judgment creditor to collect the full amounts of  
79 both punitive damage judgments until the judgments are fully satisfied.

80 (i) Neither party is required to pursue collection.

81 (ii) In pursuing collection, the state may exercise any of its collection rights under  
82 Section [63A-3-301](#) et seq., Section [63A-3-502](#) et seq., and any other statutory provisions. Any  
83 amounts collected on these judgments by either party shall be held in trust and distributed as  
84 set forth in Subsection (3)(e).

85 (d) Unless all affected parties, including the state, expressly agree otherwise, collection  
86 on the punitive damages judgment shall be deferred until all other judgments have been fully  
87 paid. Any payment by or on behalf of any judgment debtor, whether voluntary, by execution,  
88 or otherwise, shall be distributed and applied in the following order:

89 (i) to the judgment for compensatory damage and any applicable judgment for attorney

90 fees and costs;

91 (ii) to the initial \$50,000 of the punitive damage judgment;

92 (iii) to any judgment for attorney fees and costs awarded as a direct result of the  
93 punitive damages; and

94 (iv) to the remaining judgments for punitive damages.

95 (e) Any partial payments shall be distributed equally between the state and injured  
96 party.

97 (f) After the payment of attorney fees and costs, all amounts paid on the state's  
98 judgment shall be remitted to the state treasurer to be deposited into the General Fund.

99 (4) A judgment entered on or after May 1, 2024, is not subject to the requirements of  
100 Subsection (3).

101 Section 2. **Effective date.**

102 This bill takes effect on May 1, 2024.