SB-70

The Pharmaceutical Industry Tort Reform and Consumer Cost Control Act establishes limits on damages in pharmaceutical lawsuits, including economic and non-economic damages. It promotes fairness, cost control, and a stable healthcare system.

IN THE SENATE OF THE AMERICAN LEGION BOYS NATION

Mr. FREEMAN of South Carolina introduced the following bill;

A BILL

The Pharmaceutical Industry Tort Reform and Consumer Cost Control Act establishes limits on damages in pharmaceutical lawsuits, including economic and non-economic damages. It promotes fairness, cost control, and a stable healthcare system.

Be it enacted by The American Legion Boys Nation Senate assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pharmaceutical Industry Tort Reform and Consumer Cost Control Act".

SECTION 2. FINDINGS AND PURPOSE

Findings--

(1) The pharmaceutical industry plays a vital role in healthcare.

(2) Frivolous lawsuits against pharmaceutical companies can increase costs and hinder research.

Purpose--

(1) To establish reasonable limits on damages in pharmaceutical-related lawsuits, promoting fairness and affordability.

SECTION 3. LIMITATIONS ON DAMAGES

(1) Economic Damages--

(A) Total economic damages shall not exceed actual financial losses caused by the medication or treatment.

(B) Economic damages include medical expenses, lost wages, and verifiable financial losses.

(2) Non-Economic Damages--

(A) Total non-economic damages shall be capped at a reasonable limit.

(B) Non-economic damages cover pain, suffering, emotional distress, and intangible losses.

(C) The limit considers severity, duration of harm, impact on quality of life, and long-term injuries.

(D) In severe cases, damages above the limit may be awarded based on guidelines for significant harm.

(3) Punitive Damages--

(A) Punitive damages are limited to intentional misconduct or willful negligence by the pharmaceutical company.

(B) Total punitive damages shall not exceed a reasonable multiple of economic damages.

SECTION 4: STATUE OF LIMITATIONS

(1) Standard Statute of Limitations--

(A) The statute of limitations for filing pharmaceutical-related lawsuits shall be a reasonable period of time, commencing from the date the alleged harm was discovered or should have been reasonably discovered.

(2) Discovery Rule--

(A) The discovery rule shall be implemented for cases where the harm caused by a medication or treatment is not immediately apparent.

(B) Under the discovery rule, the statute of limitations shall begin when the plaintiff discovers, or reasonably should have discovered, the harm and its connection to the medication or treatment.

SECTION 5: VULNERABLE POPULATIONS CONSIDERATION

In pharmaceutical-related lawsuits, the courts shall explicitly consider the unique circumstances of vulnerable populations, including individuals with severe injuries or long-term health consequences resulting from the medication or treatment--

(1) The courts shall take into account the specific challenges, impacts, and disparities faced by these individuals when assessing the appropriate compensation.

(2) This provision aims to ensure that the damages awarded adequately reflect the circumstances and needs of vulnerable populations, promoting fairness and equity.

Section 6: Periodic Review

The damages limits in this act shall undergo periodic review for reasonableness and alignment with current circumstances--

(1) The Food and Drug Administration shall conduct assessments and submit recommendations every 5 years.

Section 7: Attorney Fees and Costs

Reasonableness of Attorney Fees--

(1) The court shall review and approve attorney fees to ensure reasonableness and proportionality to

the outcome of the case.

(2) Attorney fees shall not be contingent on a percentage of the damages awarded.

Loser Pays Principle--

(1) In cases where the plaintiff is ruled against, the court may require the plaintiff to pay the reasonable attorney fees and costs incurred by the defendant.

(2) This provision aims to discourage frivolous lawsuits and promote accountability.

Fee-Shifting Exceptions--

(1) The loser pays principle shall not apply in cases where the court determines that the plaintiff's claims were brought in good faith and based on substantial evidence. In such cases, the defendant shall be responsible for their own attorney fees and costs.

Section 8: Preemption of State Laws

(1) Federal Preemption--

(A) This act preempts conflicting state laws on pharmaceutical tort reform and damages limitations.

(B) States may enact additional measures not conflicting with this act.

Section 9: Effective Date

This act shall take effect on January 1st, 2024 after its enactment.