

ENGROSSED
COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 421

(By Senators Trump, Carmichael,
Blair and Gaunch)

[Originating in the Committee on the Judiciary;
reported February 13, 2015.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-27, relating generally to treatment of punitive damages in civil actions; providing for limitations on punitive damages in civil actions; providing for when punitive damages may be awarded in civil actions; and providing for a bifurcated trial, upon request, for civil actions involving punitive damages.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §55-7-27, to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-27. Limitations on punitive damages.

- 1 (a) An award of punitive damages may only occur in a civil action against a defendant if a
2 plaintiff establishes by clear and convincing evidence that the damages suffered were the result of

[ENG. COM. SUB. FOR S. B. NO. 421]

1 the conduct that was carried out by the defendant with actual malice toward the plaintiff or a
2 conscious, reckless and outrageous indifference to the health, safety and welfare of others.

3 (b) Any civil action tried before a jury involving punitive damages shall, upon request of any
4 defendant, be conducted in a bifurcated trial in accordance with the following guidelines:

5 (1) In the first stage of a bifurcated trial, the jury shall determine liability for compensatory
6 damages and the amount of compensatory damages, if any.

7 (2) If the jury finds during the first stage of a bifurcated trial that a defendant is liable for
8 compensatory damages, then the court shall determine whether sufficient evidence exists to proceed
9 with a consideration of punitive damages.

10 (3) If the court finds that sufficient evidence exists to proceed with a consideration of
11 punitive damages, the same jury shall determine if a defendant is liable for punitive damages in the
12 second stage of a bifurcated trial and may award such damages.

13 (4) If the jury returns an award for punitive damages that exceeds the amounts allowed under
14 subsection (c) of this section, the court shall reduce any such award to comply with the limitations
15 set forth therein.

16 (c) The amount of punitive damages that may be awarded in a civil action may not exceed
17 the greater of four times the amount of compensatory damages or \$500,000, whichever is greater.