

# Nuclear Verdicts, Tort Liability, and Legislative Responses

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**IMPORTANCE** The number and size of punitive damage awards has grown considerably since the 1980s. In 2021, there were 24 jury verdicts awarded in excess of \$100 million. These verdicts totaled \$309 billion. These verdicts can have several adverse effects. For example, they may reduce funds available to companies for safety and mitigation strategies, discourage innovation, lead to greater out-of-pocket insurance and claims costs, or lead to bankruptcy. Additionally, nuclear verdicts could reduce the capacity of the global insurance market.

**OBJECTIVES** This article brings together insurance and legal studies literature related to tort reform and nuclear verdicts to provide a comprehensive examination of nuclear verdicts. The primary focus is on a discussion of the effects of nuclear verdicts on the insurance industry and actions that are being taken to mitigate nuclear verdicts, including legal strategies and state legislative activity.

**FINDINGS** There are a number of reasons why nuclear verdicts are becoming more common. In some instances, the very nature of the facts involved in the case (age of the plaintiff, income of the plaintiff, and the extent of damages) can render a verdict more likely to be a nuclear verdict. Other reasons include the venue of where cases are being heard and the plaintiff attorney's utilization of "reptile theory" tactics at trial. Companies can be proactive in trying to mitigate losses and attorneys can use specific tactics during trials to reduce the likelihood of a nuclear verdict. For companies, this can include a focus on safety. For attorneys, this could include specific defense strategies and the use of appeals.

**CONCLUSION AND RELEVANCE** Businesses can try to prevent losses that could lead to nuclear verdicts. Additionally, attorneys can combat these verdicts through tactics at trial and the appeals process. However, given the scale of this issue, it is likely that state and federal government intervention will be needed. Some states have already taken action to limit damage awards, increase the standard of proof required to receive awards, and allow the use of bifurcated trials. At the federal level, a current bill would require trailers or semi-trailers of a certain size to install rear, side, and front guards in an attempt to reduce the number of underride accidents, one of the causes of nuclear verdicts within the trucking industry. However, since some of this legislation is new and other bills have not yet become law, it may be a few years before the effectiveness of these legislative tactics are evident.

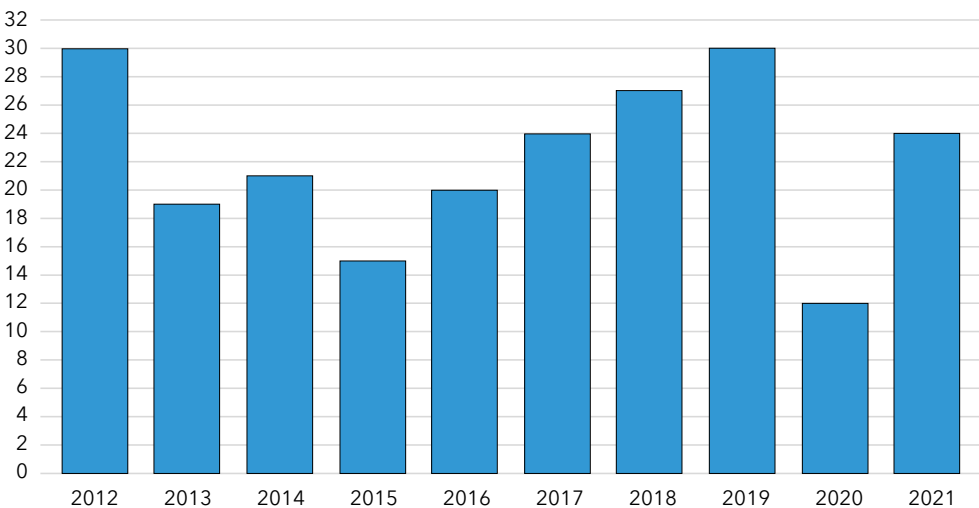


## Introduction

In 2017, two women were killed in a car crash when a driver traveling at over 90 mph ran a red light. The family sued the bar that allegedly served the driver an excessive amount of alcohol. In 2021, a Texas jury awarded the family \$300 billion in punitive damages, one of the largest punitive damage awards in history. While this is an unusually sizeable award and a “largely symbolic settlement” since the bar had gone out of business two years prior to the verdict being rendered (*Te as Jur Awards \$ > B Settlement in Suit Against Bar*, 2021), it is just one recent example of a phenomenon, termed “nuclear verdicts,” in which plaintiffs are receiving large awards, in some cases, with punitive damages 300 to 1,700 times compensatory damages (Viscusi, 2004).<sup>1</sup>

The number and size of punitive damage awards have grown considerably since the 1980s. An article tracking what it calls “blockbuster” punitive damages awards, defined as punitive damages of at least \$100 million, identifies the first as being awarded in 1985. Between 1985 and 1989, a total of five cases with blockbuster punitive damage awards were identified. During the 1990s, the study identified more than seven times as many (Viscusi, 2004).<sup>2</sup> The number of large verdict cases, including those with sizeable punitive damage awards, has continued to grow since that time. Between 2012 and 2021, 222 verdicts of \$100 million or more have been awarded. As shown in Figure 1, the number of nuclear verdicts declined between 2012 and 2015, then increased steadily until 2019. While there were only 12 such awards in 2020, there were twice as many in 2021. Figure 2 shows that while the median award has remained somewhat steady during this time, the average award and the total of these awards have varied considerably. Most recently, the 24 jury verdicts awarded in excess of \$100 million totaled \$309 billion, as reported in Table 1. This includes the \$300 billion Texas verdict mentioned earlier.

**Figure 1: Number of Nuclear Verdicts by Year**



Source: Information obtained from <https://topverdict.com/>. Includes all verdicts of \$100 million between 2012 and 2021.

1. A nuclear verdict is defined as a large or exorbitant award based on the specifics of a case, or an award larger than expected. The dollar amount of damages to qualify as a nuclear verdict is generally \$100 million or more.

2. It should be noted that a number of these cases were later settled, or the award amount was later reduced.

**Figure 2: Size of Nuclear Verdicts by Year**

\$319,720,000

Source: Information obtained from <https://topverdict.com/>. Includes all verdicts of \$100 million between 2012 and 2021.

**Table 1: Nuclear Verdicts Statistics**

Year	Number	Mean	Median	Minimum	Maximum	Total
2012	30	\$319,000,000	\$159,000,000	\$103,000,000	\$1,170,000,000	

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The insureds later filed a lawsuit against the insurer, alleging claims of bad faith, fraud, and intentional infliction of emotional distress. This lawsuit was bifurcated by the trial court, resulting in one trial on liability and one trial on damages. The first jury found that the insurer's failure to settle the liability claim was unreasonable. A second jury, examining the issue of damages, rendered a verdict award of \$2.6 million in compensatory damages and \$145 million in punitive damages to the insured. Following the second jury verdict, the trial court then reduced the jury's award to \$1 million in compensatory damages and \$25 million in punitive damages. Both parties in the case appealed, and the appeal reached the U.S. Supreme Court. In assessing whether a punitive damages award comports with the due process guarantees of the U.S. Constitution, the U.S. Supreme Court in *State Farm Mut. Auto. Ins. Co.* noted that awards of single-digit multipliers of punitive damages compared to compensatory damages were more likely to meet due process than cases outside of the single-digit multipliers.

Kanasky and Speckart (2020) have contended that the modern phenomenon of the nuclear verdict has an origin in the "runaway jury" trend of the 1990s. They remark that there was a need to quantify the basis of dollar awards for wrongful death cases. Thus, estimates would range widely depending upon the testimony of experts in cases. In some cases, juries would award the higher end of damages in wrongful death cases. However, it should be noted that punitive damage awards are not limited to jury trials. Eisenberg et al. (2002) examined punitive damages cases to determine whether there was a significant difference between the awards granted in jury-tried cases as opposed to judge-tried cases. The authors, analyzing one year of trials, found that judges and juries award punitive damages at approximately the same rate.

In recent years, nuclear verdicts have become more common in premises liability (Rabb, 2021), personal injury (Hyden, 2022), and commercial trucking cases (Moorcraft, 2022). In June 2020, the American Transportation Research Institute (ATRI) released a report, *Understanding the Impact of Nuclear Verdicts on the Trucking Industr*, which analyzed approximately 600 trucking litigation cases from 2006 to 2021 (American Transportation juries70.002 Tottru.5 0oorcr3-3.286 ( e)6.4 (xper)12.4 (tu15 (nt )0I4t n)0.5 (otco (r)18.

(2021), a 20-year-old passenger in a truck was struck by a Gainesville Regional Utilities vehicle in Alachua County, Florida. The driver of the Gainesville Regional Utilities vehicle failed to observe a stop sign. As a result of the accident, the Plaintiff was left with paraplegia. The Plaintiff was allegedly not wearing a seat belt at the time of the accident, and the truck in which the passenger was seated was allegedly speeding (Crisco, 2021; Erickson, 2021; Swirko, 2021). The jury in the *Rodgers* case awarded \$120 million, including \$114 million in damages for pain and suffering. However, since the verdict was against a municipal subdivision, a sovereign immunity cap of \$200,000 in damages applies, pursuant to the provisions of Fla. Rev. Stat. § 768.28 (Crisco, 2021).

In *Garvin v. Dominion Energy South Carolina Inc.* (2021), the Plaintiff was a municipal  
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One of the largest nuclear verdicts, more than \$1 billion, was awarded in *Dion v. AJD Business Services & Kahkashan Carrier* (2021). The case arose out of a Sept. 4, 2017, incident near Yulee, FL, that resulted in the loss of the life of an 18-year-old college student. A truck driver who did not have a commercial driver's license flipped

may proffer evidence to mitigate the wage loss claim with testimony of a vocational rehabilitation expert, who may be able to counteract a plaintiff's evidence of wage loss

the case and there are diverse parties; i.e., plaintiffs and defendants from different states. If a case is originally filed in state court and the elements of diversity jurisdiction are present, pursuant to 28 U.S.C. § 1441, a defendant can move the case from state court to federal court. It should be noted that several of the cases with nuclear verdicts mentioned earlier—the *Rodgers*, *Garvin*, *Ramse*, and *Dion* cases—all were cases where the jury delivered a verdict in state court.

### **Plaintiff Utilization of “Reptile Theory” or “Reptile Tactics”**

Several legal commentators have also cited plaintiffs’ counsel utilization of the “reptile theory” or “reptile tactics” as a rationale for the rise in nuclear verdicts (Herbers & Fears, 2021; Katz et al., 2021; Marinakis, 2022). The “reptile theory” has its foundation with neuroscience research in the 1960s, particularly that of Paul MacLean, which focused on the “reptilian” part of the human brain (Sirico Jr., 2017). This theory posits that part of the human brain has its evolutionary origins with reptiles, and this part of the brain focuses on the protection of the individual, family, and community (Sirico Jr., 2017). David Ball and Don Keenan co-authored a book, entitled “Reptile: the 2009 Manual of the Plaintiff’s Revolution,” that extended this theory to the courtroom. Under the reptile theory, a plaintiff’s attorneys will focus on the actions of the defendant and seek to appeal to the jury’s sense of safety (The Reptile Theory, 2020). The attorney will start with an emphasis on safety rules and the violation of safety rules, and then argue that the violation of those rules placed the plaintiff in great danger (The Reptile Theory, 2020).

The “reptile theory” and “reptile tactics” can have the effect of confusing the jury to the benefit of the plaintiff’s attorneys (McCubbin, 2020). With the focus on safety under this theory, jurors can become confused with the proper legal standard to apply; i.e., instead of applying a correct legal standard based on statutory or common law duties during jury deliberation, an improper “safest possible” standard could potentially be applied (McCubbin, 2020; Voss, 2022).

### **Other Reasons: Stealth Jurors, Tactics at Trial, and Egregious Conduct on the Part of Defendants**

Kanasky and Speckart (2020) have cited several other reasons that might account for an increase in nuclear verdicts. One is the phenomenon of the “stealth juror,” where a juror may be skilled in concealing biases against certain defendants and is then motivated by sympathy at trial to award a high amount of damages in a case.

In some cases, a nuclear verdict may be due to the tactics utilized by counsel at trial. Part of a defense attorney’s strategy at trial is often preserving a record on appeal, as objections not made during a trial phase can be waived on appeal (Davis, 2007). Kanasky and Speckart (2020) argue that the emphasis on preserving the appellate record could come with a tradeoff in altering tactics during the trial, with the defense expending less energy trying to “win” the jury. Thus, a nuclear verdict may be more likely to occur.

Finally, Kanasky and Speckart (2020) also note that in some cases, defendants may engage in egregious conduct that causes the jury to award more in damages. Indeed, in several states, defendants may be liable for punitive damages awards in cases of



or, in more severe cases, lead to bankruptcy. Nuclear verdicts have been specifically cited as the cause of bankruptcy for several small trucking companies (American Transportation Research Institute, 2020; Hawes, 2022).

Nuclear verdicts have also been cited as reasons for larger settlement awards. It is estimated that a large percentage of cases are settled before trial, and other cases are settled after the verdict is rendered but before damages are awarded. Called the "shadow effect," it is possible that nuclear verdicts are used by plaintiffs in the negotiation of settlements; specifically, the fear of a nuclear verdict may lead potential defendants to agree to larger settlements. In a recent interview, an attorney indicated that if a claim involved a loss that had a high probability of resulting in a large verdict, "settlement (or another form of alternative dispute resolution) needs to be strongly considered" (Smith, 2021). While there is not much academic research in this area, Koenig (1998) reviews research on punitive damage awards that focus on four states considered judicial "hot spots": Florida, California, Alabama, and Texas. The author finds that some of the studies in Alabama, California, and Texas did find evidence that large punitive damage awards affect settlements.

Finally, nuclear verdicts have led to reductions in insurance capacity and changes to insurance programs. For example, global casualty insurance capacity was \$2.2 billion in 2018. By 2020, this had dropped to \$1.4 billion. This decrease was related to the reductions in the availability of certain types of coverages within the U.S. "because of the volatile nature of the U.S. litigation environment" (Willis Towers Watson, November 2020). Insurers are also making changes to insurance programs, taking such actions as reducing the limits of liability for some coverages and increasing attachment points for excess insurance and/or reinsurance (Willis Towers Watson, November 2020; Wright, 2022).

## **Mitigation of Nuclear Verdicts**

There are a variety of actions that can be taken by companies prior to a loss and attorneys during trials to reduce the likelihood of a nuclear verdict. For companies, this can include a focus on safety. For attorneys, this could include specific defense



## **State and Federal Legislative Activity**

Deng and Zanjani (2018) find evidence of a connection between state tort reform and

the table in the Appendix. As outlined in the table, Arkansas, Colorado, Hawaii, Idaho, Maine, Mississippi, Ohio, and Tennessee all limit non-economic damages. California, Florida, Indiana, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, and Wisconsin all limit non-economic damages in medical malpractice cases. Finally, Maryland limits non-economic damages only in wrongful death cases.

It is interesting to note that of the three states accounting for most of the nuclear verdicts, California has no cap on punitive damages, while Florida has one of the larger caps. Texas has one of the lower caps, at \$200,000 or greater than twice the economic damages. All states limit non-economic damages, but only for medical malpractice/health care liability claims.

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In 1995, Texas enacted tort reforms, which changed the landscape on the recovery of punitive damages in the state. First, the reforms implemented a cap on punitive damages; i.e., twice the amount of economic damages. In addition, the reforms eliminated gross negligence as a basis for recovery of punitive damages, instead allowing punitive damages in cases of fraud, malice, or a wrongful death resulting from a “willful act or omission” or “gross neglect” (Barrick, 1995). These reforms were further extended in 2003, and punitive damages awards in Texas now require unanimous juries (Miller, 2003).

In the past decade, there has been an increasing prevalence of larger verdicts against trucking companies in Texas (Zalud, 2021). Within the past two years, the Texas Legislature enacted H.B. 19, which allows bifurcated trials in cases involving commercial motor vehicles. In the first trial, liability and compensatory damages are decided; in the second trial, punitive damages are decided. The law became effective on Sept. 1, 2021, so it may be some time before we know its impact, but proponents expect that it will diminish the impact of the “reptile theory” tactics.

Limitations on damages is an area in which reform is ongoing. It is likely that states that do not currently have any restrictions may propose bills similar to the existing laws in the states discussed in this section if nuclear verdicts increase in their state. The report completed by the ATRI (2020), finds that in California, Georgia, Illinois, Kansas, Missouri, Nebraska, New York, North Carolina, Oregon, Pennsylvania, Virginia, and Wyoming, more than 90% of the verdicts were in favor of the plaintiffs. This may be evidence that some jurisdictions are more favorable to plaintiffs than others, and limitations on damage awards in these states would have a more significant impact on the number of nuclear verdicts than similar legislation in other states (Hess et al., 2012; Evans & Leslie, 2021). Though not on the list of top states affected by nuclear verdicts, limitations on damages awards in trucking cases may soon be implemented in Iowa. There is a bill before the Iowa Legislature, S.F. 228, which would place a cap of \$2 million on the recovery of pain and suffering (non-economic) damages in commercial vehicle accident cases. In addition, trucking companies could not be sued for the negligent hiring, training, or supervision of a driver involved in an accident. It has passed through the Iowa Senate (Gruber-Miller, 2023). Interestingly, not discussed in any recent legislation throughout the country is the imposition of a unanimous jury requirement for the imposition of large damage awards over a certain number, similar to what Texas requires for punitive damages awards.

There is a variety of research related to the impact of limitations on damages.

awarded. However, the effectiveness of this tort reform measure may depend on the specific cap selected. It should be noted that studies have also shown that in the absence of the ability to provide punitive damage awards, juries increase the amount of compensatory damages (Robbennolt & Studebaker, 1999; Anderson & MacCoun, 1999; Greene et al., 2001). If this is the case, then limiting punitive damages may just lead to juries shifting dollars that would have been awarded in punitive damages to the category of compensatory damages.<sup>11</sup>

While placing limitations on punitive damage awards may have some impact on the number of nuclear verdicts, this alone may not be an effective tool. Another option adopted by several states is to increase the standard of proof required to receive punitive damages. In almost all these states, while a "preponderance of evidence" is required to receive compensatory damages, which is an easier standard to meet, to receive punitive damages, plaintiffs must meet a higher burden of "clear and convincing evidence" (Hurd & Zollers, 1994). However, there can be concern as to whether jurors understand the differences in the standards. Additionally, a study finds that the standard of proof "had relatively little impact" on the decision of the mock jurors to award punitive damages (Woody & Greene, 2012).

As described in the discussion of *State Farm Mut. Auto. Ins. Co.*, bifurcated trials are trials that separate the liability decision and the decision on the amount of damages to award; i.e., the compensatory and punitive damages decisions. While there can be several reasons for doing so, as it relates to punitive damages, the purpose would be to prevent prejudicing the jury or having them influenced by the wealth of the plaintiff. This distinction is important because while compensatory damages should factor in the wealth of the plaintiff as it considers factors such as lost wages and loss of earning potential, punitive damages are intended to serve the purpose of holding the negligent party responsible and deterring others from engaging in similar behavior. As such, the punitive award is related more to the actions of the defendant than the financial position of the plaintiff.

Empirical evidence suggests that there are benefits to bifurcation. Greene et al. (2000) find that while evidence related to punitive damages did not affect the mock jurors' decisions related to compensatory damages, there did appear to be some correlation between the defendants' wealth and jurors' decisions related to punitive damages. There are few states that allow or require bifurcated trials, and the bifurcation is related to specific instances. For example, for medical malpractice cases, Missouri requires the use of bifurcated trials when punitive damages are involved, and Arkansas, New Jersey, and Ohio allow bifurcated trials if requested. Finally, in states such as Connecticut, Florida, and New York, the court or judge can order bifurcation. Also, as discussed earlier, Texas now allows for bifurcated trials in cases involving commercial motor vehicles.

Finally, studies have also explored the impact of a variety of other reform measures, including joint and several liability reforms, collateral source rule reforms, attorney contingency fees, and penalties for frivolous lawsuits and/or defenses. Viscusi et al. (1993) find that joint and several liability is associated with lower premiums; although,

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11. Some studies also control for the "egregiousness" of the defendant's actions and find that the actions do not affect the level of compensatory damages when punitive damages can be awarded.

Schmit et al. (1997) and Born et al. (2009) find that this reform measure is positively associated with claims filings and reported losses. Lee et al. (1994) find that the impact of this reform on claims filings varied depending on the extent of the reform, with this reform having no impact in states that completely abolished joint and several liability in comparison to those that modified it. Older studies considering the collateral source rule generally found that reform in this area has little to no impact on insurers. More recent studies, including Grace and Leverty (2013), Born and Neale (2014), and Heaton (2017) generally find some evidence that collateral source rule reform is associated with lower losses and premiums. Additionally, Schmit et al. (1997) find that reform

awards, and allowing the use of bifurcated trials. At the federal level, a current bill would require trailers or semi-trailers of a certain size to install rear, side, and front guards to reduce the number of underride accidents, which is one of the causes of nuclear verdicts within the trucking industry. Some of this legislation is new, and other bills have not yet become law, so it may be a few years before the effectiveness of these legislative tactics is evident.

Nuclear verdicts can have several adverse effects on businesses, both directly and indirectly. In a recent report, the NAIC/Center for Insurance Policy and Research (CIPR) Research Library (Center for Insurance Policy and Research, 2023) cites nuclear verdicts as one of the drivers of social inflation, noting that nuclear verdicts have grown from being primarily related to medical malpractice claims to other liability insurance, including commercial auto, private passenger auto (PPA), directors and officers, and errors and omission. The report further states that social inflation, or larger claims costs and loss ratios, can ultimately lead to “insurers raising the costs of premiums to the point where insurance may become unaffordable for businesses or consumers” (Center for Insurance Policy and Research, 2023). Additionally, companies in a variety of industries may be forced to forgo growth opportunities or safety mitigation efforts due to potential risks and greater out-of-pocket insurance and claims expenses; or in extreme cases, nuclear verdicts may lead to bankruptcy. Finally, these verdicts have affected the cost and availability of insurance on a global basis. Given the widescale potential impact on businesses and consumers, understanding the cause of nuclear verdicts, monitoring the trends in nuclear verdicts in terms of affected lines of insurance, and regularly examining the effectiveness of existing legislation will be key in developing strategies to mitigate the growth in nuclear verdicts.

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## Appendix

**Table: Damage Caps by State**

State	Statute	Punitive Damage Cap	Exceptions	Non-Economic Damage Cap
Alabama	Ala. Code § 6-11-21	Greater of 3:1 or \$500,000	Does not apply to wrongful death actions	None
Alaska	Alaska Stat. Ann. § 9.17.010 and Alaska Stat. Ann. § 9.17.020	Greater of 3:1 or \$500,000	If defendant's conduct was motivated by financial gain, then the punitive damages cap does not exceed the greatest of: 1) four times the amount of compensatory damages; 2) four times the amount of aggregate amount of financial gain the defendant received as a result of the defendant's misconduct; or 3) \$7,000,000	\$400,000 or the person's life expectancy in years multiplied by \$8,000, whichever is greater. In cases involving severe permanent physical impairment or severe disfigurement, the cap is \$1,000,000 or the person's life expectancy in years multiplied by \$25,000, whichever is greater.
Arizona	None	None	There are no punitive damages caps in Arizona; however, per Arizona Rev. Stat. § 12-820.04 neither public employees acting within the scope of employment nor public entities can be liable for punitive damages.	None
Arkansas	Caps were found in Ark. Code Ann. § 16-55-208(a)(1)-(2) - found unconstitutional	The punitive damages cap in Arkansas was held unconstitutional in <i>Bayer CropScience LP v. Schafer</i> , 385 S.W. 3d 822 (Ark. 2011)	N/A	None
California	None	None	N/A	None; however, per Cal. Civ. Code § 3333.2 non-economic damages in medical malpractice cases are capped at \$250,000.

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State	Statute	Punitive Damage Cap	Exceptions	Non-Economic Damage Cap
Idaho	Idaho Code Ann. § 6-1604	Greater of 3:1 or \$250,000	N/A	Per Idaho Code Ann. § 6-1603, non-economic damages were capped at \$250,000 in 2004; since that year, the cap increases or decreases pursuant to the amount of increase or decrease by which the Idaho Industrial Commission adjusts the annual average wage.
Illinois	Ill. Comp. Stat. Ann. § 5/2-2107	Illinois does not have a cap on punitive damages.	N/A	In <i>Lebron v. Gottlieb Memorial Hospital</i> , 930 N.E.2d 895 (Ill. 2010), the Supreme Court of Illinois ruled that non-economic damages caps in medical malpractice actions are unconstitutional.
Indiana	Ind. Code Ann. § 34-51-3-4	Greater of 3:1 or \$50,000	Per <i>Durham v. U-Haul International</i> , 745 N.E.2d 755 (Ind. 2001), punitive damages are not recoverable in wrongful death actions.	In medical malpractice actions, per Ind. Code Ann. § 34-14-18-3, the total amount recoverable for a claimant in a medical malpractice action is \$1,800,000 for an act of malpractice that occurs after July 1, 2019.
Iowa	Iowa Code Ann. § 668A.1	None	N/A	None
Kansas	Kan. Stat. Ann § 60-3701(e)	Lesser of \$5 million or defendant's highest gross income over the last five years	If a defendant is expected to make a profit above the cap, then 1.5 times defendant's expected profit	In 2019, the Supreme Court of Kansas in <i>Hilburn v. Enerpipe Ltd.</i> , 442 P.3d 509 (Kan. 2019) held that non-economic damages caps in personal injury actions are unconstitutional.
Kentucky	Ky. Rev. Stat. Ann. § 411.186	None	N/A	None

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Louisiana	La. Civ. Code Ann. Art. 2315	Punitive damages are generally not recoverable in Louisiana.	There are a few statutory exceptions to the recovery of punitive damages, including cases involving intoxicated defendants and hazing, for example.	Per La. Rev. Stat. § 40:1231.2(B)(1), there is a \$500,000 cap of damages in medical malpractice actions.
Maine	18-C Me. Rev. Stat. Ann. § 2-807(2)	\$250,000	N/A	\$750,000
Maryland	None	None	N/A	Per Md. Code § 3-2A-09(b), the cap of non-economic damages on wrongful death claims is \$905,000. For wrongful death claims involving two or more wrongful death beneficiaries, it is \$1,380,000.
Massachusetts	Mass. Gen. Laws Ann. 229 § 2 (wrongful death cases)	In wrongful death for		

State	Statute	Punitive Damage Cap	Exceptions	Non-Economic Damage Cap
Mississippi	Miss. Code Ann. § 11-1-65(3(a))	The cap on punitive damages depends upon the defendant's net worth and follows a scale. For any defendant worth \$50 million or less, then the cap is 2% of the defendant's net worth.	N/A	Per Miss. Code Ann. § 11-1-60(2) (a) and (b), there is a general cap of \$1,000,000 for non-economic damages. In medical malpractice actions, there is a cap of \$500,000.
Missouri	Mo. Rev. Stat. § 510.265	Greater of 5:1 or \$500,000.	N/A	





State	Statute	Punitive Damage Cap	Exceptions	Non-Economic Damage Cap
Oklahoma	23 Okla. Stat. Ann. § 9.1(B)	Lesser of \$100,000 or the amount of actual damages awarded.	If a court finds that the defendant has acted intentionally and with malice toward others, then the cap is the lesser of \$500,000 or twice the actual damages awarded.	In the case of <i>Beason v. I.E. Miller Services Inc.</i> , 441 P.3d 1107 (Okla. 2019), the Supreme Court of Oklahoma held the state's cap on non-economic damages to be unconstitutional.
Oregon	Or. Rev. Stat. § 31.735(1)	None	Per Or. Rev. Stat. § 31.740, punitive damages are not recoverable against a health care provider acting without malice.	None
Pennsylvania	None	There is no general cap on punitive damages in Pennsylvania.	There are some specific caps on punitive damages in specific causes of action.	None
Rhode Island	None	There is no general cap on punitive damages in Rhode Island.	Per the Supreme Court of Rhode Island in <i>Simeone v. Charron</i> , 762 A.2d 442 (2000), punitive damages are not recoverable in a wrongful death action in Rhode Island.	None
South Carolina	S.C. Code Ann. § 15-32-530(A)	Greater of 3:1 or \$500,000	The punitive damages cap does not apply if the defendant had an intent to harm the plaintiff and indeed harms the plaintiff, the defendant has pled guilty to or has been convicted of a felony relating to the conduct at issue in the case, or the defendant acted under the influence of alcohol or drugs.	Per S.C. Code Ann. § 15-32-220(B), there is a [h30 ( Md[(the)no (e i -1.2 Td[

State	Statute	Punitive Damage Cap	Exceptions	Non-Economic Damage Cap
Tennessee	Tenn. Code Ann. § 29-39-104	Greater of 2:1 or \$500,000	The punitive damages cap does not apply if the defendant had a specific intent to inflict serious physical injury and indeed seriously injured the plaintiff; the defendant has committed a felony relating to the conduct at issue in the case; or the defendant acted under the influence of alcohol, drugs, or any other intoxicant or stimulant.	Per Tenn. Code Ann. § 29-39-102(b) and (c), Tennessee has a non-economic damages cap of \$750,000 with a cap of \$1,000,000 in cases involving a catastrophic injury.
Texas	Tex. Civ. Prac. & Rem. Code Ann. § 41.008	Greater of \$200,000 or 2:1	The punitive damages cap does not apply to conduct that constitutes certain felony crimes.	Per Tex. Civ. Prac. & Rem. Code Ann. § 74.301(a), there is a non-economic damages cap of \$250,000 per claimant for health care liability claims.
Utah	Utah Code Ann. § 78B-8-201	There is no cap on punitive damages in Utah.	The first \$50,000 of any punitive damages award is awarded to the plaintiff, and any excess award beyond \$50,000 is shared equally between the state and the plaintiff.	Per Utah Code Ann. § 78B-3-410(1)(d), there is a non-economic damages cap of \$450,000 for malpractice claims against health care providers.
Vermont	N/A	None	N/A	None
Virginia	Va. Code Ann. § 8.01-38.1	\$350,000	N/A	Per Va. Code Ann. § 8.01-581.15, there is a \$2.55 million non-economic damages cap with medical malpractice claims.
Washington	None	None; punitive damages are prohibited unless authorized by statute.	N/A	Caps on non-economic damages are unconstitutional in Washington, per the Supreme Court of Washington decision in <i>Sofie v. Fibreboard Corp.</i> , 771 P.2d 711 (Wash. 1989).

State	Statute	Punitive Damage Cap	Exceptions	Non-Economic Damage Cap
West Virginia	None	None	N/A	In 2003, per W. Va. Code Ann. § 55-7B-8, a non-economic damages cap of \$250,000 in medical malpractice actions was enacted, with adjustments for inflation.
Wisconsin	Wis. Stat. Ann. § 895.043(6)	Greater of 2:1 or \$200,000.	The punitive damages cap does not apply in cases involving the defendant's operation of a vehicle while intoxicated.	Per Wis. Stat. Ann. § 893.55(d)6nt's 1Etl.0 -1f018a-1.nw is[(5