

ONE HUNDRED EIGHTH LEGISLATURE - FIRST SESSION - 2023
COMMITTEE STATEMENT
LB25

Hearing Date: Wednesday January 25, 2023
Committee On: Judiciary
Introducer: Wayne
One Liner: Authorize punitive damages as prescribed and provide for distribution

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Blood, DeBoer, DeKay, Ibach, McKinney, Wayne
Nay:	1	Senator Geist
Absent:		
Present Not Voting:	1	Senator Holdcroft

Testimony:

Proponents:
Senator Justin Wayne
Vince Powers

Representing:
District 13
Nebraska Association of Trial Attorneys

Opponents:
Emily Motto
Robert M. Bell

Kent Grisham

Representing:
Nebraska Defense Counsel Association
Nebraska Insurance Federation / Nebraska Chamber of
Commerce
Nebraska Trucking Association

Neutral:

Representing:

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB25 establishes a process for awarding punitive damages in civil actions. The bill defines compensatory, nominal, and punitive damages. The measure allows the court to award punitive damages to punish and provide retribution as well as act as a deterrent and discourage future similar behavior. Punitive damages are awarded where there is either an intent to cause injury or the injury is caused with reckless disregard to lives and safety. LB25 establishes a procedure for seeking punitive damages and determining the damages as well as for remitting the damages.

Section-by-section

Section 1: Makes findings and declarations. Article VII Section 5 of the Nebraska Constitution provides that fines, penalties, and license money are paid in the county where imposed and are used to support the common schools. Punitive damages are designed to deter conduct giving rise to a lawsuit and are in the nature of penalties and fines. Additional funds available

to public schools could provide property tax relief.

Section 2: Defines “compensatory damages,” “nominal damages”, and “punitive damages.”

Section 3: Allows the court to award punitive damages in a civil action when intent to cause harm is present or a reckless disregard for lives and safety of others. May be awarded to punish and provide retribution, act as a deterrent, and demonstrate the courts disapproval of the conduct.

Section 4: Punitive damages must be specifically asked for in the complaint. The county attorney is notified when punitive damages are awarded and may become a party to protect the interests of schools.

Section 5: The decision to award and amount of punitive damages are determined by the trier of fact, unless waived by all parties.

Section 6: Punitive damages awarded are remitted to the State Treasurer for distribution.

Section 7: Sections 1 to 6 of the bill are cumulative with and supplemental to other laws authorizing punitive damages.

Explanation of amendments:

The amendment adds a burden of proof on the party seeking punitive damages. The party seeking punitive damages must prove by clear and convincing evidence that the other party acted in a willfully reckless manner.

Justin Wayne, Chairperson