
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1785 Session of
2001

INTRODUCED BY HENNESSEY, BROWNE, CALTAGIRONE, CAPPELLI, DALEY,
DERMODY, FAIRCHILD, FEESE, GANNON, HARPER, JAMES, MCGILL,
MCILHATTAN, R. MILLER, PHILLIPS, ROSS, RUBLEY, SAINATO,
SATHER, SCRIMENTI, T. STEVENSON, E. Z. TAYLOR, THOMAS,
WATSON, WILT AND ZIMMERMAN, JUNE 19, 2001

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 19, 2001

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for the
3 right of action regarding profits received as a result of the
4 commission of a crime; and providing for permissible argument
5 as to damages at trial.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 8312(b) of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 8312. Profits received as a result of commission of crime.

11 * * *

12 (b) Right of action.--Notwithstanding any inconsistent
13 provision of law or rules of civil procedure with respect to the
14 timely bringing of an action, any eligible person shall have the
15 right to bring a civil action in a court of competent
16 jurisdiction to recover money damages from a person convicted of
17 a crime or the legal representative of that convicted person
18 within three years of the discovery of any profits from a crime.

1 Any damages awarded in this action shall be recoverable only up
2 to the value of the profits from the crime and all reasonable
3 attorney fees and other costs associated with the litigation of
4 the action. If an action is filed under this subsection after
5 the expiration of all other applicable statutes of limitation,
6 any other eligible person must file any action for damages as a
7 result of the crime within three years of the actual discovery
8 of profits from the crime or of actual notice received from or
9 notice published by the board of the discovery, whichever is
10 later. If any profits from a crime remain after the payment of
11 claims made under this section, the board shall have the right
12 to bring a civil action within two years in a court of competent
13 jurisdiction to recover any payments made by the board pursuant
14 to Article IV of the act of April 9, 1929 (P.L.177, No.175),
15 known as The Administrative Code of 1929, and any expenses
16 incurred by the board pursuant to Article IV of The
17 Administrative Code of 1929 or this section with regard to such
18 crime or the person convicted of such crime.

19 * * *

20 Section 2. Title 42 is amended by adding a section to read:

21 § 8313. Permissible argument as to damages at trial.

22 (a) General rule.--Except as provided in subsection (b), in
23 any civil action tried before a judge, jury or other tribunal,
24 an attorney during closing argument:

25 (1) May specifically argue in lump sums or by
26 mathematical formulae the amount he deems to be an
27 appropriate award for all past and future economic or
28 noneconomic damages or both economic and noneconomic damages
29 claimed to be recoverable.

30 (2) May, on behalf of a defendant, argue to the judge,

1 jury or other tribunal that an award of zero damages is
2 appropriate, even if there is a finding of liability against
3 the defendant.

4 (b) Prior disclosure required.--

5 (1) No party may argue a specific sum as provided in
6 subsection (a) unless the party first discloses to the court
7 and opposing counsel that the party intends to argue the
8 specific damages listed in subsection (a) prior to the
9 presentation of closing arguments.

10 (2) Nothing in this subsection shall be construed to
11 prevent a defendant from arguing in any case that the facts
12 and evidence support a finding of no liability.

13 (3) Notwithstanding paragraph (1), arguments as to
14 appropriate amount of economic damages may be made without
15 notice to opposing counsel if evidence supporting economic
16 damages has been introduced at trial.

17 (c) Jury instruction.--Whenever, in a civil action tried
18 before a jury, specific lump sums or mathematical formulae are
19 argued during closing arguments as provided for in subsection
20 (a), the trial court shall instruct the jury that the sums or
21 mathematical formulae argued are not evidence but only arguments
22 and that the determination of the amount of appropriate damages
23 to be awarded, if any, is solely for the jury's determination.

24 Section 3. This act shall take effect in 60 days.