

CHAPTER 172

COURTS

HOUSE BILL 97-1239

BY REPRESENTATIVES Paschall, Adkins, Arrington, George, Gordon, Grossman, Hagedorn, Kaufman, McPherson, Morrison, Nichol, Saliman, Tool, Udall, Veiga, Lamborn, and Tate;
also SENATORS Perlmutter, Duke, Matsunaka, Pascoe, Rupert, Thiebaut, Wells, Hernandez, J. Johnson, Martinez, Phillips, and Tanner.

AN ACT

CONCERNING ADJUSTMENTS TO DAMAGES LIMITATION STATUTES TO REFLECT THE EFFECTS OF INFLATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that by utilizing the statistical measuring tool known as the "consumer price index for Denver-Boulder, all items, all urban consumers" published by the United States Department of Labor, Bureau of Labor Statistics, an accurate estimate of the current purchasing power of the dollar, compared to prior years, can be obtained.

(2) The general assembly further finds that:

(a) Since the enactment of certain limitations on damages in 1986 the purchasing power of the dollar has decreased approximately thirty-two percent;

(b) Since the enactment of certain other limitations on damages in 1989 the purchasing power of the dollar has decreased approximately twenty-seven percent.

(3) The general assembly further finds that those injured persons or survivors of deceased injured persons whose damages are found to justify an award from a jury or the court in excess of the present limitations are those who are most severely injured or damaged.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(4) The general assembly further finds that by passage of this act the venerable American tradition of just compensation for injuries and damages will be strengthened because the original legislative intent will be restored.

SECTION 2. 12-46-112.5, Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-46-112.5. Civil liability for sale, service, or provision of fermented malt beverages to any intoxicated person or any person under the age of twenty-one years - legislative declaration. (6) (a) THE LIMITATIONS ON DAMAGES SET FORTH IN PARAGRAPH (c) OF SUBSECTION (3) AND PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION SHALL BE ADJUSTED FOR INFLATION AS OF JANUARY 1, 1998. THE ADJUSTMENT MADE ON JANUARY 1, 1998, SHALL BE BASED ON THE CUMULATIVE ANNUAL ADJUSTMENT FOR INFLATION FOR EACH YEAR SINCE THE EFFECTIVE DATE OF THE DAMAGES LIMITATIONS IN PARAGRAPH (c) OF SUBSECTION (3) AND PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION. THE ADJUSTMENT MADE PURSUANT TO THIS PARAGRAPH (a) SHALL BE ROUNDED UPWARD OR DOWNWARD TO THE NEAREST TEN-DOLLAR INCREMENT.

(b) AS USED IN THIS SUBSECTION (6), "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

(c) THE SECRETARY OF STATE SHALL CERTIFY THE ADJUSTED LIMITATION ON DAMAGES WITHIN FOURTEEN DAYS AFTER THE APPROPRIATE INFORMATION IS AVAILABLE, AND SUCH ADJUSTED LIMITATION ON DAMAGES SHALL BE THE LIMITATION APPLICABLE TO ALL CLAIMS FOR RELIEF THAT ACCRUE ON OR AFTER JANUARY 1, 1998.

SECTION 3. 12-47-128.5, Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-47-128.5. Civil liability for sale, service, or provision of alcoholic beverages to any intoxicated person - legislative declaration. (5) (a) THE LIMITATIONS ON DAMAGES SET FORTH IN PARAGRAPH (c) OF SUBSECTION (3) AND PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION SHALL BE ADJUSTED FOR INFLATION AS OF JANUARY 1, 1998. THE ADJUSTMENT MADE ON JANUARY 1, 1998, SHALL BE BASED ON THE CUMULATIVE ANNUAL ADJUSTMENT FOR INFLATION FOR EACH YEAR SINCE THE EFFECTIVE DATE OF THE DAMAGES LIMITATIONS OF PARAGRAPH (c) OF SUBSECTION (3) AND PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION. THE ADJUSTMENT MADE PURSUANT TO THIS PARAGRAPH (a) SHALL BE ROUNDED UPWARD OR DOWNWARD TO THE NEAREST TEN-DOLLAR INCREMENT.

(b) AS USED IN THIS SUBSECTION (5), "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

(c) THE SECRETARY OF STATE SHALL CERTIFY THE ADJUSTED LIMITATION ON DAMAGES WITHIN FOURTEEN DAYS AFTER THE APPROPRIATE INFORMATION IS AVAILABLE, AND SUCH ADJUSTED LIMITATION ON DAMAGES SHALL BE THE LIMITATION

APPLICABLE TO ALL CLAIMS FOR RELIEF THAT ACCRUE ON OR AFTER JANUARY 1, 1998.

SECTION 4. 13-21-102.5 (3), Colorado Revised Statutes, 1987 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

13-21-102.5. Limitations on damages for noneconomic loss or injury.

(3) (c) (I) THE LIMITATIONS ON DAMAGES SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (3) SHALL BE ADJUSTED FOR INFLATION AS OF JANUARY 1, 1998. THE ADJUSTMENT MADE ON JANUARY 1, 1998, SHALL BE BASED ON THE CUMULATIVE ANNUAL ADJUSTMENT FOR INFLATION FOR EACH YEAR SINCE THE EFFECTIVE DATE OF THE DAMAGES LIMITATIONS IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (3). THE ADJUSTMENT MADE PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE ROUNDED UPWARD OR DOWNWARD TO THE NEAREST TEN-DOLLAR INCREMENT.

(II) AS USED IN THIS PARAGRAPH (c), "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

(III) THE SECRETARY OF STATE SHALL CERTIFY THE ADJUSTED LIMITATION ON DAMAGES WITHIN FOURTEEN DAYS AFTER THE APPROPRIATE INFORMATION IS AVAILABLE, AND SUCH ADJUSTED LIMITATION ON DAMAGES SHALL BE THE LIMITATION APPLICABLE TO ALL CLAIMS FOR RELIEF THAT ACCRUE ON OR AFTER JANUARY 1, 1998.

(IV) NOTHING IN THIS SUBSECTION (3) SHALL CHANGE THE LIMITATIONS ON DAMAGES SET FORTH IN SECTION 13-64-302, OR THE LIMITATION ON DAMAGES SET FORTH IN SECTION 33-44-113, C.R.S.

SECTION 5. Part 2 of article 21 of title 13, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

13-21-203.7. Adjustment of dollar limitations for effects of inflation. (1) THE LIMITATIONS ON NONECONOMIC DAMAGES SET FORTH IN SECTION 13-21-203 (1) AND THE AMOUNT OF THE SOLATIUM SET FORTH IN SECTION 13-21-203.5 SHALL BE ADJUSTED FOR INFLATION AS OF JANUARY 1, 1998. THE ADJUSTMENT MADE ON JANUARY 1, 1998, SHALL BE BASED ON THE CUMULATIVE ANNUAL ADJUSTMENT FOR INFLATION FOR EACH YEAR SINCE THE EFFECTIVE DATE OF THE DAMAGES LIMITATIONS IN SECTIONS 13-21-203 (1) AND 13-21-203.5. THE ADJUSTMENT MADE PURSUANT TO THIS SUBSECTION (1) SHALL BE ROUNDED UPWARD OR DOWNWARD TO THE NEAREST TEN-DOLLAR INCREMENT.

(2) AS USED IN THIS SECTION, "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

(3) THE SECRETARY OF STATE SHALL CERTIFY THE ADJUSTED LIMITATION ON DAMAGES WITHIN FOURTEEN DAYS AFTER THE APPROPRIATE INFORMATION IS AVAILABLE, AND SUCH ADJUSTED LIMITATION ON DAMAGES SHALL BE THE LIMITATION APPLICABLE TO ALL CLAIMS FOR RELIEF THAT ACCRUE ON OR AFTER JANUARY 1, 1998.

SECTION 6. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 21, 1997