



State of Tennessee

PUBLIC CHAPTER NO. 224

SENATE BILL NO. 222

By Kelsey, Green

Substituted for: House Bill No. 126

By Womick, Dennis, Durham, Mark White, Joe Carr

AN ACT to amend Tennessee Code Annotated, Section 29-39-104, relative to punitive damage awards based on vicarious liability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-39-104, is amended by adding the following as a new subsection (g):

(g)(1) Notwithstanding subdivision (a)(9), punitive damages may be awarded against a defendant based on vicarious liability for the acts or omissions of an agent or employee only if the finder of fact determines by special verdict based on clear and convincing evidence that one or more of the following has occurred:

(A) The act or omission was committed by a person employed in a management capacity while that person was acting within the scope of employment;

(B) The defendant was reckless in hiring, retaining, supervising or training the agent or employee and that recklessness was the proximate cause of the act or omission that caused the loss or injury; or

(C) The defendant authorized, ratified or approved the act or omission with knowledge or conscious or reckless disregard that the act or omission may result in the loss or injury.

(2) Nothing in this subsection shall be construed to expand or increase the scope of vicarious liability or punitive damages liability under Tennessee law.

(3) For purposes of this subsection, "a person employed in a management capacity" means an employee with authority to set policy and exercise control, discretion, and independent judgment over a significant scope of the employer's business.

SECTION 2. This act shall take effect July 1, 2013, and shall apply to all actions accruing on or after that date, the public welfare requiring it.

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PASSED: April 1, 2013



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 19th day of April 2013



BILL HASLAM, GOVERNOR