

**2SHB 2292** - S AMD to S COMM AMD (S5455.1) **167**  
By Senator Carrell

**NOT ADOPTED 2/22/2006**

1 On page 60, after line 19, insert the following:

2 "Sec. 317. RCW 4.56.250 and 1986 c 305 s 301 are each amended to  
3 read as follows:

4 (1) As used in this section, the following terms have the meanings  
5 indicated unless the context clearly requires otherwise.

6 (a) "Economic damages" means objectively verifiable monetary  
7 losses, including medical expenses, loss of earnings, burial costs,  
8 loss of use of property, cost of replacement or repair, cost of  
9 obtaining substitute domestic services, loss of employment, and loss of  
10 business or employment opportunities.

11 (b) "Noneconomic damages" means subjective, nonmonetary losses,  
12 including, but not limited to pain, suffering, inconvenience, mental  
13 anguish, disability or disfigurement incurred by the injured party,  
14 loss of ability to enjoy life, emotional distress, loss of society and  
15 companionship, loss of consortium, injury to reputation and  
16 humiliation, (~~and~~) destruction of the parent-child relationship, and  
17 other nonpecuniary damages of any type.

18 (c) "Bodily injury" means physical injury, sickness, or disease,  
19 including death.

20 (d) "Average annual wage" means the average annual wage in the  
21 state of Washington as determined under RCW 50.04.355.

22 (2) In no action seeking damages for personal injury or death may  
23 a claimant recover a judgment for noneconomic damages exceeding an  
24 amount determined by multiplying 0.43 by the average annual wage and by  
25 the life expectancy of the person incurring noneconomic damages, as the  
26 life expectancy is determined by the life expectancy tables adopted by  
27 the insurance commissioner. For purposes of determining the maximum  
28 amount allowable for noneconomic damages, a claimant's life expectancy  
29 shall not be less than fifteen years. The limitation contained in this  
30 subsection applies to all claims for noneconomic damages made by a  
31 claimant who incurred bodily injury. Claims for loss of consortium,  
32 loss of society and companionship, destruction of the parent-child

1 relationship, and all other derivative claims asserted by persons who  
2 did not sustain bodily injury are to be included within the limitation  
3 on claims for noneconomic damages arising from the same bodily injury.

4 (3) If a case is tried to a jury, the jury shall not be informed of  
5 the limitation contained in subsection (2) of this section.

6 NEW SECTION. **Sec. 318.** A new section is added to chapter 4.56 RCW  
7 to read as follows:

8 (1) In an action or arbitration for damages for injury or death  
9 occurring as a result of health care, or arranging for the provision of  
10 health care, whether brought under chapter 7.70 RCW, or under RCW  
11 4.20.010, 4.20.020, 4.20.046, 4.20.060, 4.24.010, or 48.43.545(1), or  
12 any combination thereof, the total amount of noneconomic damages may  
13 not exceed one million dollars.

14 (2) The limitation on noneconomic damages contained in subsection (1)  
15 of this section includes all noneconomic damages claimed by or on  
16 behalf of the person whose injury or death occurred as a result of  
17 health care or arranging for the provision of health care, as well as  
18 all claims for loss of consortium, loss of society and companionship,  
19 destruction of the parent-child relationship, and other derivative  
20 claims asserted by or on behalf of others arising from the same injury  
21 or death. If the jury's assessment of noneconomic damages exceeds the  
22 limitation contained in subsection (1) of this section, nothing in RCW  
23 4.44.450 precludes the court from entering a judgment that limits the  
24 total amount of noneconomic damages to those limits provided in  
25 subsection (1) of this section.

26 NEW SECTION. **Sec. 219.** A new section is added to chapter 4.56 RCW  
27 to read as follows:

28 In the event that the Washington state supreme court or other court  
29 of competent jurisdiction rules or affirms that section 318 of this act  
30 is unconstitutional, then the prescribed cap on noneconomic damages  
31 takes effect upon the ratification of a state constitutional amendment  
32 that empowers the legislature to place limits on the amount of  
33 noneconomic damages recoverable in any or all civil causes of action."

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1       Renumber the sections consecutively and correct any internal  
2 references accordingly.

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7       On page 61, line 15 of the title amendment, after "7.70.100",  
8 strike "and 7.70.080" and insert "7.70.080, and 4.56.250"

9       On page 61, line 17 of the title amendment, after "chapter"  
10 insert "4.56 RCW, and"

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**EFFECT:** Provides for a \$1 million dollar cap on non-economic damages in actions for damages for injuries as a result of health care.