

Bill No. CS for SB 378

Amendment No.     

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Webster moved the following amendment:

**Senate Amendment (with title amendment)**

On page 5, line 4, delete that line

and insert:

(2)(a) Except as provided in paragraph (b), punitive damages may not be awarded against a defendant in a civil action if that defendant establishes, before trial, that punitive damages have previously been awarded against that defendant in any state or federal court in any action alleging harm from the same act or single course of conduct for which the claimant seeks compensatory damages. For purposes of a civil action, the term "the same act or single course of conduct" includes acts resulting in the same manufacturing defects, acts resulting in the same defects in design, or failure to warn of the same hazards, with respect to similar units of a product.

(b) In subsequent civil actions involving the same act or single course of conduct for which punitive damages have already been awarded, if the court determines by clear and

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1 convincing evidence that the amount of prior punitive damages  
 2 awarded was insufficient to punish that defendant's behavior,  
 3 the court may permit a jury to consider an award of subsequent  
 4 punitive damages. In permitting a jury to consider awarding  
 5 subsequent punitive damages, the court shall make specific  
 6 findings of fact in the record to support its conclusion. In  
 7 addition, the court may consider whether the defendant's act  
 8 or course of conduct has ceased. Any subsequent punitive  
 9 damage awards must be reduced by the amount of any earlier  
 10 punitive damage awards rendered in state or federal court.

11 (3) The claimant attorney's fees, if payable from the  
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14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 On page 1, line 19, after the semicolon

17

18 insert:

19 prohibiting the award of subsequent punitive  
 20 damages against a defendant if punitive damages  
 21 were previously awarded against the defendant  
 22 for harm arising out of the same act or single  
 23 course of conduct; providing an exception;

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