

ASSEMBLY BILL

No. 1863

Introduced by Assembly Member Harman

January 17, 2006

An act to add Section 3294.3 to the Civil Code, relating to exemplary damages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1863, as introduced, Harman. Exemplary damages.

Existing law provides that in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

On and after July 1, 2007, in any action in which exemplary damages are recoverable pursuant to the above-described provision, this bill would require the trier of fact to determine whether the defendant is liable for exemplary damages. The bill would further require the court to determine the amount of the award, if any, and enter an order setting that amount and the reasons for supporting the award.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3294.3 is added to the Civil Code, to
2 read:

1 3294.3. In any action in which exemplary damages are
2 recoverable pursuant to Section 3294, the following shall apply:
3 (a) The trier of fact shall determine whether the defendant is
4 liable for exemplary damages.
5 (b) The trial court shall determine the amount of the award and
6 enter an order setting the amount of the award and the reasons for
7 supporting the award.
8 (c) This section shall apply to all actions in which the award of
9 exemplary damages is determined at a trial that is commenced on
10 or after July 1, 2007.