

SENATE BILL 2637

By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 29,
relative to punitive damages.

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

SECTION 1. Tennessee Code Annotated, Section 29-39-104(a), is amended by adding the following as a new subdivision (10):

(10)

(A) 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:

(i) The act or omission was committed by someone employed in a management capacity and acting within the scope of employment;

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

(iii) The defendant authorized, ratified or approved the act or omission with knowledge or conscious disregard for the loss or injury.

(B) Nothing in this subdivision shall be construed as expanding or increasing the scope of vicarious liability or punitive damages liability under Tennessee law.

(C) For purposes of this subdivision, "someone employed in a management capacity" means a management-level employee with the stature and authority to set policy and exercise control, discretion, and independent

judgment over a significant scope of the employer's business and where the alleged act or omission warranting punitive damages by such management-level employee was directly within the scope of such authority.

SECTION 2. This act shall take effect July 1, 2012, the public welfare requiring it.