

# Texas Turnaround

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## THE IMPACT OF LAWSUIT REFORM ON ECONOMIC ACTIVITY IN THE LONE STAR STATE

*April 2008*

A recently completed study by The Perryman Group found that the enactment of a series of lawsuit reforms, beginning in 1995, have transformed the state's civil justice environment from one that previously hindered economic activity and deterred job growth to one that promotes productivity, enhances efficiency, creates jobs and boosts the competitiveness of the state's businesses and industries in a global economy.

The goal of civil justice reform in Texas has been to create an honest and predictable civil justice system that ensures timely compensation for legitimately injured parties and a fair determination of liability for those who are alleged to have caused harm to others.

The Perryman Group's analysis shows that lawsuit reform has the additional benefit of nurturing the state's economic growth in a variety of ways, each producing a ripple effect throughout the Texas economy. Business owners and taxpayers save millions of dollars by eliminating non-productive expenditures related to unnecessary litigation, including administrative costs, court costs and the waste of the time of executives and workers.

The Perryman Group concludes that approximately 8.5% of Texas' economic growth since 1995 is the result of lawsuit reforms. The economic gains attributable to these reforms include:

**\$112.5 BILLION** increase in annual spending

**\$51.2 BILLION** increase in annual output – goods and services produced in Texas

**\$2.6 BILLION** increase in annual state tax revenue

**\$468.9 MILLION** in annual benefits from safer products

**\$15.2 BILLION** in annual net benefits of enhanced innovation

**499,000** permanent jobs

**430,000** additional Texans have health insurance today as a result of the medical liability reforms

## CHRONOLOGY OF LAWSUIT REFORMS IN TEXAS

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The Perryman Group notes that wide ranging lawsuit reforms passed in Texas, beginning in 1995, have markedly contributed to the economic competitiveness and job growth in the state. Those reforms include:

- 1995** The Texas Legislature limited punitive damages, reformed joint and several liability, and restricted venue shopping. The Deceptive Trade Practices Act was restored to its original purpose of protecting consumers in ordinary consumer transactions. The Legislature enacted a half dozen other reforms to curtail specific lawsuit abuses.
- 1995-2003** A variety of reforms were enacted, including restrictions on lawsuits filed by residents of other states and countries and the imposition of reasonable standards to prevent the abuses that led to the scandals surrounding the tobacco settlement.
- 2003** The Texas Legislature enacted comprehensive reforms governing medical liability litigation, including a \$750,000 limit on non-economic damages; initiated product liability reforms; made the burden of proving punitive damages similar to criminal law, requiring a unanimous jury verdict; comprehensively reformed the statutes governing joint and several liability and class action lawsuits; imposed limits on appeal bonds, enabling defendants to appeal their lawsuits and not be forced into settlements; further limited the filing of lawsuits that should have been brought in other states or countries; as well as enacting other targeted reforms.
- 2003** Voters approved a constitutional amendment to eliminate potential court challenges to the law capping non-economic damages in medical cases at \$750,000.
- 2005** The Texas Legislature curtailed abusive asbestos/silica lawsuits.
- 2007** The Texas Legislature closed a loophole in state venue law that had created an avalanche of lawsuits against the dredging industry and threatened Texas' critical maritime industry.

## THE TURNAROUND IN MEDICAL LIABILITY

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Perhaps the most visible economic impact of lawsuit reforms are the benefits experienced by Texans who have better access to high-quality healthcare. Doctors and hospitals are using their liability insurance savings to expand services and initiate innovative programs. According to the Texas Hospital Association, those savings have allowed Texas hospitals to expand charity care by 24%.

This dramatic reversal would have been hard to imagine just a few years ago. Between 1999 and 2003, medical insurance premiums for many Texas doctors doubled, due to abusive litigation and excessive jury awards. As a result, Texas went from 50 insurance carriers in the late 1990's to only four in 2003. Orthopedic surgeons, neurosurgeons, obstetricians, and other high-risk specialists were leaving the state – adding to the already critical shortage of doctors and nurses in rural areas, the border region, and many other parts of Texas.

In 2001, according to the American Medical Association, Texas' ranking in physicians per capita was a dismal 48th out of 50.

The 2003 medical liability reforms set in motion a domino effect of immediate, positive developments across the state.

- First, in August 2004, the Texas Hospital Association reported a 70% reduction in the number of lawsuits filed against the state's hospitals.
- Second, medical liability insurance rates declined. Many doctors saw average rate reductions of over 21%, with some doctors seeing almost 50% decreases. (Recent information provided to The Perryman Group during the course of this study suggests that premiums are declining even further in 2008.)
- Third, beginning in 2003, physicians started returning to Texas. The Texas Medical Board reports licensing 10,878 new physicians since 2003, up from 8,391 in the prior four years. Perryman has determined that at least 1,887 of those physicians are specifically the result of lawsuit reform.
- Finally, in May 2006, the American Medical Association removed Texas from its list of states experiencing a liability crisis, marking the first time it has removed any state from the list. A recent survey by the Texas Medical Association also found a dramatic increase in physicians' willingness to resume certain procedures they had stopped performing, including obstetrics, neurosurgical, radiation and oncological procedures.

## COMPREHENSIVE LAWSUIT REFORMS HAVE BOOSTED EVERY REGION OF THE STATE

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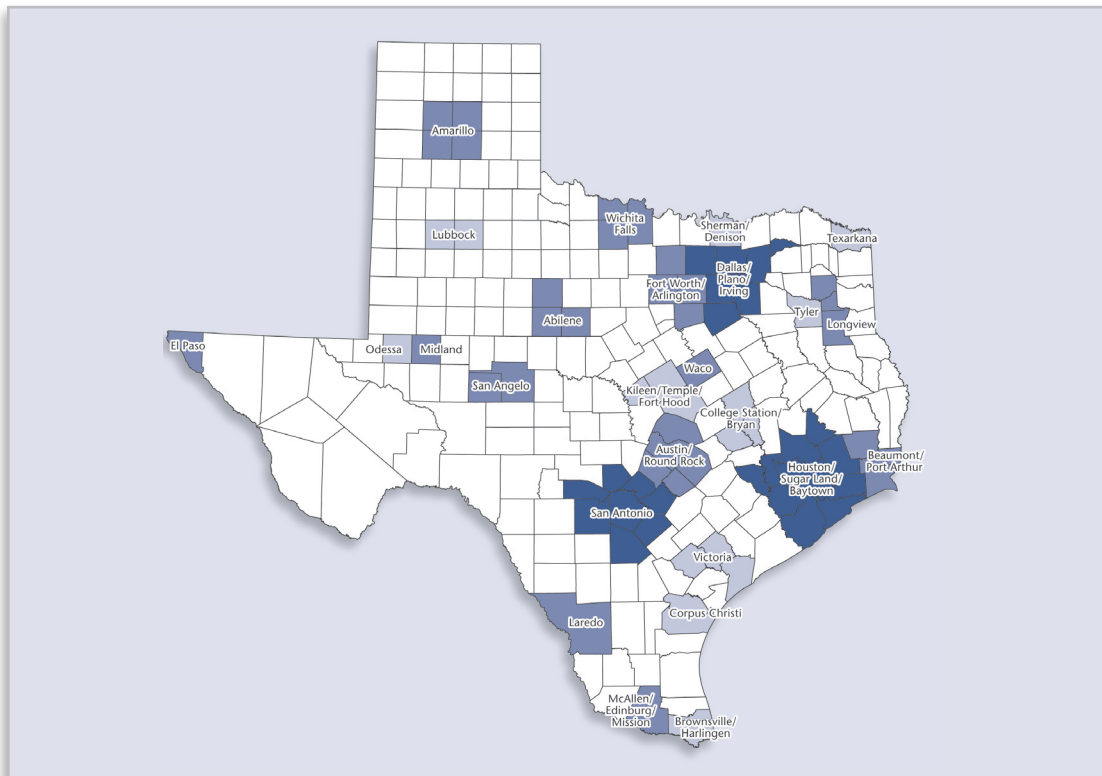
While medical liability reform has attracted the most public notice, it is only one of 23 important reforms passed since 1995. These reforms have comprehensively improved the law to eliminate or deter abuses and unfair practices. As a result, enhancement of business activity spans the entire state and permeates the entire economy. The Houston-Sugar Land-Baytown area has gained \$39.1 billion in annual spending from lawsuit reform and 152,905 permanent jobs, while rural Texas has gained \$4.01 billion in annual spending and almost 20,000 jobs. The border region has experienced broad and visible benefits from lawsuit reform. Brownsville-Harlingen gained 4,621 permanent jobs, McAllen-Edinburg-Mission gained 7,993 jobs and Laredo gained 1,834 jobs. Annual economic spending increases in those three metropolitan areas totaled almost \$3 billion.

Today, objective studies rank Texas near the top among all states in terms of the overall lawsuit climate. For example, the most recent US Tort Liability Index, calculated by the Pacific Research Institute, ranks Texas second among all states for “inputs” (cost factors) and eighteenth in terms of outputs (such as jury verdicts). The state also ranks extremely well in terms of jury awards per capita, but continues to be hampered by the risk of large, unreasonable verdicts in some areas.

The Perryman Group’s new study presents fresh data that validates the measured lawsuit reforms enacted in Texas thus far, but it does not signal that further improvements are not needed. Continued attention to remaining problem areas will further enhance the benefits of a more fair, efficient and effective system of civil justice in Texas.

TEXANS *for* LAWSUIT REFORM  
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## REGIONAL IMPACTS OF LAWSUIT REFORM: ECONOMIC GROWTH & PERMANENT JOBS



Texas Metropolitan Area	Annual Economic Spending (in billions)	Permanent Jobs Created	Texas Metropolitan Area	Annual Economic Spending (in billions)	Permanent Jobs Created
ABILENE	\$0.63	2,784	LUBBOCK	\$1.02	5,103
AMARILLO	\$0.99	4,776	MCALLEN/ EDINBURG/ MISSION	\$1.53	7,993
AUSTIN/ ROUND ROCK	\$6.72	35,943	MIDLAND	\$0.34	1,624
BEAUMONT/ PORT ARTHUR	\$1.75	8,308	ODESSA	\$0.34	1,467
BROWNSVILLE/ HARLINGEN	\$0.92	4,621	SAN ANGELO	\$0.39	1,738
COLLEGE STATION/ BRYAN	\$0.59	2,953	SAN ANTONIO	\$7.88	39,068
CORPUS CHRISTI	\$1.97	8,085	SHERMAN/ DENISON	\$0.33	1,746
DALLAS/PLANO/ IRVING	\$28.17	126,789	TEXARKANA	\$0.38	1,932
FORT WORTH/ ARLINGTON	\$8.51	38,718	TYLER	\$1.34	5,830
EL PASO	\$2.02	9,251	VICTORIA	\$0.40	1,627
HOUSTON/ SUGAR LAND/ BAYTOWN	\$39.14	152,905	WACO	\$0.74	3,523
KILEEN/TEMPLE/ FORT HOOD	\$0.80	4,495	WICHITA FALLS	\$0.47	2,301
LAREDO	\$0.37	1,834	RURAL TEXAS	\$4.01	19,950
LONGVIEW	\$0.73	3,481	<b>TOTAL</b>	<b>\$112.48</b>	<b>498,845</b>