

Damages law tabled for 2nd reading

Suppose a piece of glass fell on your head from a building, do you know who to seek compensation from? Or, if your pet dog bites a person, do you know how much to pay for medication?

The answers can be found in a law drafted to ensure that people are compensated for suffering injuries or losses for no fault of theirs and submitted to the National People's Congress (NPC) for its second reading yesterday.

If an object falling from a building injures people and it is difficult to find the culprit, all occupants of the building likely to have been responsible should share the compensation, the draft law says.

It clarifies that if a dog bites a person, its owner has to foot the entire medical bill for the victim unless the owner can prove that the person provoked the dog. But even if it is proved that the victim had provoked the animal, the owner could still end up paying the entire medical bill if the dog is not registered.

Besides these two provisions, the 88-stipulation draft tort liability law covers compensations for a number of other civil infringements such as harm caused by defective products, traffic and medical accidents, environmental pollution and Internet abuse.

"It's a basic (draft) law to protect people's civil rights and ensure that their grievances are redressed. It (the draft) is closely connected to everyone," Li Shishi, deputy director of the NPC law committee, told legislators yesterday.

A number of infringement cases have been filed in recent years, but there is no special law to ensure compensation.

"Last year, courts across the country handled at least 870,000 civil infringement cases, and the number is growing," he said.

Yang Lixin, a professor with the Renmin University of China who helped draft the law, said such a law is urgently needed. The draft tort law was submitted to the NPC Standing Committee for its first reading in 2002 as part of the draft civil law, but the legislature later decided to review it as a separate statute because of its significance and complexity.

"The second draft is so different from the first. It's much more complete and scientific," Yang said.

He said stipulations on how to decide liabilities in defective products and medical disputes, and environmental pollution cases might receive wide public attention.

For example, the draft stipulates that victims can seek compensation for more than their actual losses if a firm continues making a product after knowing that it is defective, Yang said.

Only the US has stipulations on "punitive compensation" now, said Yao Hong, director of the civil law office of the NPC Standing Committee's legislative affairs commission.

"While drafting the tort law, we learnt a lot from similar laws being practiced by Western countries," she said.



A child pats a dog at an exhibition in Yancheng, Shandong province. A draft law specifies the compensation a person has to pay if his pet bites another person. Fang Dehua

A stipulation that allows medical staff to provide emergency medical treatment to serious patients without the authorization of the family is very important, Yang said.

Last November, a 22-year-old pregnant woman Li Liyun died of severe pneumonia because her husband Xiao Zhijun refused to sign papers that would have allowed a Beijing hospital to perform a life-saving surgery.

Xiao insisted till the last moment that his wife was suffering from nothing more than a simple cold.

The incident sparked a nationwide controversy over whether a patient's family members have too much power when it comes to taking decisions on medical treatment.

The case is not over yet because Li's parents have filed a lawsuit against the hospital for failing to perform its duty.

But Yang was "disappointed" to see that the draft does not spell out standard amounts of compensation for different infringements.

"Some details have been cut from the version we experts submitted," Yang said. "An implementation rule is needed after the draft is passed."

A draft law usually receives three readings before being passed by legislators, according to the Legislation Law. But Wang Liming, director of the civil law institute of China Law Society, said the draft tort law might need more readings. "Because this law is a fundamental civil law it could need a nod of a full session of the NPC instead of just the NPC Standing Committee," he said.

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(China Daily 12/23/2008 page3)