

1                                   **RECOVERY OF SPECIAL DAMAGES FOR**  
 2   **INJURIES**

3   2001 GENERAL SESSION

4   STATE OF UTAH

5                                   **Sponsor: A. Lamont Tyler**

6   **This act modifies the Judicial Code to define special damages and clarify the circumstances**  
 7   **under which they may be recovered in certain actions.**

8   This act affects sections of Utah Code Annotated 1953 as follows:

9   AMENDS:

10           **78-11-12**, as last amended by Chapter 113, Laws of Utah 1991

11   *Be it enacted by the Legislature of the state of Utah:*

12           Section 1. Section **78-11-12** is amended to read:

13           **78-11-12. Survival of action for injury to person or death upon death of wrongdoer**  
 14   **or injured person -- Exception and restriction to out-of-pocket expenses.**

15           (1) (a) Causes of action arising out of personal injury to the person or death caused by the  
 16   wrongful act or negligence of another do not abate upon the death of the wrongdoer or the injured  
 17   person. The injured person or the personal representatives or heirs of the person who died have  
 18   a cause of action against the wrongdoer or the personal representatives of the wrongdoer for  
 19   special and general damages, subject to Subsection (1)(b).

20           (b) If prior to judgment or settlement the injured person dies as a result of a cause other  
 21   than the injury received as a result of the wrongful act or negligence of the wrongdoer, the personal  
 22   representatives or heirs of that person ~~h [are entitled to receive no more than the [out-of-pocket~~

23 ~~expenses] special damages incurred by or on behalf of that injured person before his or her death~~  
 24 ~~as [the] a result of [his] the complained of injury.] HAVE A CAUSE OF ACTION AGAINST THE~~

24a ~~WRONGDOER OR PERSONAL REPRESENTATIVES OF THE WRONGDOER ONLY FOR~~

24aa ~~§ [PRE-DEATH] §~~

24b ~~SPECIAL DAMAGES § OCCURRING PRIOR TO DEATH § THAT RESULT FROM THE INJURY~~

24bb ~~CAUSED BY THE WRONGDOER, INCLUDING~~

24c ~~INCOME LOSS. h~~

25           ~~h [(c) (i) As used in this section, "special damages" means medical expenses, expenses~~  
 26 ~~incident to the injured person's needs such as crutches, wheelchairs, necessary household,~~

27 ~~workplace, and automobile modifications, travel, lodging and meal expenses, income loss, and ] h~~



28 ~~h [other readily quantifiable losses, expenses, or damages.] h~~

29 ~~h [(ii)] h "Special damages" does not include pain and suffering, loss of enjoyment of life, and~~  
30 ~~other not readily quantifiable damages frequently referred to as general damages.~~

31 (2) Under Subsection (1) neither the injured person nor the personal representatives or  
32 heirs of the person who died may recover judgment except upon competent satisfactory evidence  
33 other than the testimony of that injured person.

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**Legislative Review Note**  
**as of 11-9-00 2:28 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Committee Note**

The Judiciary Interim Committee recommended this bill.