

**PERSONAL INJURY DAMAGES AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kay L. McIff**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to a cause of action for personal injury damages.

**Highlighted Provisions:**

This bill:

- ▶ provides for a limit of \$100,000 in general damages collected in personal injury cases related to a wrongful act or negligence;
- ▶ requires notice be mailed to or served upon a person or party believed to be at fault for personal injury; and
- ▶ exempts an uninsured motorist from general damage awards over \$100,000 under certain circumstances.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-3-107**, as last amended by Laws of Utah 2009, Chapter 293

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

Section 1. Section **78B-3-107** is amended to read:



28           **78B-3-107. Survival of action for injury or death to person, upon death of**  
29 **wrongdoer or injured person -- Exception and restriction to out-of-pocket expenses.**

30           (1) (a) A cause of action arising out of personal injury to a person, or death caused by  
31 the wrongful act or negligence of another, does not abate upon the death of the wrongdoer or  
32 the injured person. The injured person, or the personal representatives or heirs of the person  
33 who died, has a cause of action against the wrongdoer or the personal representatives of the  
34 wrongdoer for special and general damages, subject to Subsection (1)(b).

35           (b) If, prior to judgment or settlement, the injured person dies as a result of a cause  
36 other than the injury received as a result of the wrongful act or negligence of the wrongdoer,  
37 the personal representatives or heirs of the person have a cause of action against the wrongdoer  
38 or personal representatives of the wrongdoer for special and general damages~~[, and general].~~  
39 General damages may not [to] exceed \$100,000~~[, which resulted from the injury caused by the~~  
40 ~~wrongdoer and which occurred prior to death of the injured party from the unrelated cause].~~

41           (c) If the death of the injured party from an unrelated cause occurs more than six  
42 months after the incident giving rise to the claim for damages, the claim shall be limited to  
43 special damages unless, prior to the ~~[expiration of the six months,]~~ injured party's death:

44           (i) written notice of intent to hold the wrongdoer responsible has been [given or]  
45 mailed to or served upon the person or entity believed to be at fault or the person's or entity's  
46 insurance carrier or uninsured motorist carrier of the injured party; or

47           (ii) a claim for damages against the person or entity believed to be at fault is the subject  
48 of ongoing negotiations between the parties or persons representing the parties or their insurers.

49           (d) A subsequent claim against an underinsured motorist carrier for which the injured  
50 party was a covered person is not subject to the notice requirement described in Subsection  
51 (1)(c). In no event shall the general damage award exceed \$100,000 regardless of available  
52 liability or underinsured automobile insurance.

53           (2) Under Subsection (1) neither the injured person nor the personal representatives or  
54 heirs of the person who dies may recover judgment except upon competent satisfactory  
55 evidence other than the testimony of the injured person.

56           (3) This section may not be construed to be retroactive.

**Legislative Review Note**  
**as of 2-6-14 4:39 PM**

**Office of Legislative Research and General Counsel**