

Representative Kay L. McIff proposes the following substitute bill:

PERSONAL INJURY DAMAGES AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay L. McIff

Senate Sponsor: John L. Valentine

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



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

27 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~~] a wrongdoer, does not abate upon the death of the
32 wrongdoer or the injured person. The injured person, or the personal representatives or heirs of
33 the person who died, has a cause of action against the wrongdoer or the personal
34 representatives of the 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 [~~damages,~~] and general damages [~~not~~
39 ~~to exceed \$100,000,~~] which resulted from the injury caused by the wrongdoer and which
40 occurred prior to death of the injured party from the unrelated cause. General damages may not
41 exceed \$100,000.

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

45 (i) written notice of intent to hold the wrongdoer responsible has been [given or]
46 mailed to or served upon the wrongdoer or the wrongdoer's insurance carrier or the uninsured
47 motorist carrier of the injured party, and proof of mailing or service can be produced upon
48 request; or

49 (ii) a claim for damages against the wrongdoer or against the uninsured motorist carrier
50 of the injured party is the subject of ongoing negotiations between the parties or persons
51 representing the parties or their insurers.

52 (d) A subsequent claim against an underinsured motorist carrier for which the injured
53 party was a covered person is not subject to the notice requirement described in Subsection
54 (1)(c).

55 (e) In no event shall the general damage award exceed \$100,000 regardless of available
56 liability, uninsured or underinsured motor vehicle coverage.

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

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