

## HB0118S01 compared with HB0118

~~{deleted text}~~ shows text that was in HB0118 but was deleted in HB0118S01.

inserted text shows text that was not in HB0118 but was inserted into HB0118S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: \_\_\_\_\_

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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

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### 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:

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

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

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

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

(i) written notice of intent to hold the wrongdoer responsible has been ~~[given or]~~ mailed to or served upon the ~~{person or entity believed to be at fault}~~ wrongdoer or the ~~{person's or entity's}~~ wrongdoer's insurance carrier or the uninsured motorist carrier of the injured party, and proof of mailing or service can be produced upon request; or

(ii) a claim for damages against the ~~{person}~~ wrongdoer or ~~{entity believed to be at fault}~~ against the uninsured motorist carrier of the injured party is the subject of ongoing

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negotiations between the parties or persons representing the parties or their insurers.

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

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

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

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

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**Legislative Review Note**

~~as of 2-6-14 4:39 PM~~

~~Office of Legislative Research and General Counsel~~