

HOUSE BILL No. 2482

By Representative Swenson

12-17

AN ACT concerning civil procedure; relating to the amount of damages; amending K.S.A. 60-19a01 and 60-19a02 and K.S.A. 2003 Supp. 60-1903 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2003 Supp. 60-1903 is hereby amended to read as follows: 60-1903. (a) In any wrongful death action, the court or jury may award such damages as are found to be fair and just under all the facts and circumstances, but the damages, other than pecuniary loss sustained by an heir at law, cannot exceed in the aggregate the sum of \$250,000 and costs.

(b) ~~If a wrongful death action is to a jury, the court shall not instruct the jury on the monetary limitation imposed by subsection (a) upon recovery of damages for nonpecuniary loss.~~ If the jury verdict results in an award of damages for nonpecuniary loss which, after deduction of any amounts pursuant to K.S.A. 60-258a and amendments thereto, exceeds the limitation of subsection (a), the court shall enter judgment for damages of \$250,000 for nonpecuniary loss.

(c) In any wrongful death action, the verdict shall be itemized by the trier of fact to reflect the amounts, if any, awarded for:

- (1) Nonpecuniary damages;
- (2) expenses for the care of the deceased caused by the injury; and
- (3) pecuniary damages other than those itemized under subsection (c)(2).

(d) Where applicable, the amounts required to be itemized pursuant to subsections (c)(1) and (c)(3) shall be further itemized by the trier of fact to reflect those amounts awarded for injuries and losses sustained to date and those awarded for injuries and losses reasonably expected to be sustained in the future.

(e) In any wrongful death action, the trial court shall instruct the jury only on those items of damage upon which there is some evidence to base an award.

Sec. 2. K.S.A. 60-19a01 is hereby amended to read as follows: 60-19a01. (a) As used in this section, "personal injury action" means any action for damages for personal injury or death, except for medical mal-

1 practice liability actions.

2 (b) In any personal injury action, the total amount recoverable by
3 each party from all defendants for all claims for pain and suffering shall
4 not exceed a sum total of \$250,000.

5 (c) In every personal injury action, the verdict shall be itemized by
6 the trier of fact to reflect the amount awarded for pain and suffering.

7 ~~If a personal injury action is tried to a jury, the court shall not~~
8 ~~instruct the jury on the limitations of this section.~~ If the verdict results in
9 an award for pain and suffering which exceeds the limit of this section,
10 the court shall enter judgment for \$250,000 for all the party's claims for
11 pain and suffering. Such entry of judgment by the court shall occur after
12 consideration of comparative negligence principles in K.S.A. 60-258a and
13 amendments thereto.

14 (e) The provisions of this section shall not be construed to repeal or
15 modify the limitation provided by K.S.A. 60-1903 and amendments
16 thereto in wrongful death actions.

17 (f) The provisions of this section shall apply only to personal injury
18 actions which are based on causes of action accruing on or after July 1,
19 1987, and before July 1, 1988.

20 Sec. 3. K.S.A. 60-19a02 is hereby amended to read as follows: 60-
21 19a02. (a) As used in this section "personal injury action" means any
22 action seeking damages for personal injury or death.

23 (b) In any personal injury action, the total amount recoverable by
24 each party from all defendants for all claims for noneconomic loss shall
25 not exceed a sum total of \$250,000.

26 (c) In every personal injury action, the verdict shall be itemized by
27 the trier of fact to reflect the amount awarded for noneconomic loss.

28 ~~If a personal injury action is tried to a jury, the court shall not~~
29 ~~instruct the jury on the limitations of this section.~~ If the verdict results in
30 an award for noneconomic loss which exceeds the limit of this section,
31 the court shall enter judgment for \$250,000 for all the party's claims for
32 noneconomic loss. Such entry of judgment by the court shall occur after
33 consideration of comparative negligence principles in K.S.A. 60-258a and
34 amendments thereto.

35 (e) The provisions of this section shall not be construed to repeal or
36 modify the limitation provided by K.S.A. 60-1903 and amendments
37 thereto in wrongful death actions.

38 (f) The provisions of this section shall apply only to personal injury
39 actions which are based on causes of action accruing on or after July 1,
40 1988.

41 Sec. 4. K.S.A. 60-19a01 and 60-19a02 and K.S.A. 2003 Supp. 60-
42 1903 are hereby repealed.

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1 Sec. 5. This act shall take effect and be in force from and after its
2 publication in the statute book.
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