

HOUSE BILL No. 2886

By Representatives Kiegerl and Swenson, Carlin, Davis, Flaharty,
McLachlan, Judy Morrison, Powers and Sawyer

2-13

10 AN ACT concerning civil procedure; relating to wrongful death; amend-
11 ing K.S.A. 60-1903 and repealing the existing section.
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 60-1903 is hereby amended to read as follows: 60-
15 1903. (a) In any wrongful death action, the court or jury may award such
16 damages as are found to be fair and just under all the facts and circum-
17 stances, but the damages, other than pecuniary loss sustained by an heir
18 at law, cannot exceed in the aggregate the sum of \$250,000 and costs.

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

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

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

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

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

40 (f) *In any wrongful death action, the court or jury may award such*
41 *damages as are found to be fair and just under all the facts and*
42 *circumstances.*

43 (g) *The provisions of subsections (a), (b), (c) and (d) shall apply only*

1 *to a wrongful death action based upon a cause of action accruing on or*
2 *before June 30, 2008. The provisions of subsection (f) shall apply only to*
3 *a wrongful death action based upon a cause of action accruing on or after*
4 *July 1, 2008.*

5 Sec. 2. K.S.A. 60-1903 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after its
7 publication in the statute book.