

HOUSE BILL No. 2547

By Representative Swenson

12-6

9 AN ACT concerning civil procedure; relating to the amount of damages;
10 amending K.S.A. 60-19a01, 60-19a02 and 60-1903 and repealing the
11 existing sections.
12

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

14 Section 1. K.S.A. 60-19a01 is hereby amended to read as follows: 60-
15 19a01. (a) As used in this section, “personal injury action” means any
16 action for damages for personal injury or death, except for medical mal-
17 practice liability actions.

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

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

23 (d) If a personal injury action is tried to a jury, the court ~~shall not~~
24 *may* instruct the jury on the limitations of this section. If the verdict
25 results in an award for pain and suffering which exceeds the limit of this
26 section, the court shall enter judgment for \$250,000 for all the party’s
27 claims for pain and suffering. Such entry of judgment by the court shall
28 occur after consideration of comparative negligence principles in K.S.A.
29 60-258a and amendments thereto.

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

33 (f) The provisions of this section shall apply only to personal injury
34 actions which are based on causes of action accruing on or after July 1,
35 1987, and before July 1, 1988.

36 Sec. 2. K.S.A. 60-19a02 is hereby amended to read as follows: 60-
37 19a02. (a) As used in this section “personal injury action” means any
38 action seeking damages for personal injury or death.

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

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

1 (d) If a personal injury action is tried to a jury, the court ~~shall not~~
2 *may* instruct the jury on the limitations of this section. If the verdict
3 results in an award for noneconomic loss which exceeds the limit of this
4 section, the court shall enter judgment for \$250,000 for all the party's
5 claims for noneconomic loss. Such entry of judgment by the court shall
6 occur after consideration of comparative negligence principles in K.S.A.
7 60-258a and amendments thereto.

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

11 (f) The provisions of this section shall apply only to personal injury
12 actions which are based on causes of action accruing on or after July 1,
13 1988.

14 Sec. 3. 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~~ *may*
20 instruct the jury on the monetary limitation imposed by subsection (a)
21 upon recovery of damages for nonpecuniary loss. If the jury verdict results
22 in an award of damages for nonpecuniary loss which, after deduction of
23 any amounts pursuant to K.S.A. 60-258a and amendments thereto, ex-
24 ceeds the limitation of subsection (a), the court shall enter judgment for
25 damages 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 Sec. 4. K.S.A. 60-19a01, 60-19a02 and 60-1903 are hereby repealed.

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