

SENATE BILL No. 335

By Special Committee on Judiciary

1-6

9 AN ACT concerning civil procedure; relating to collateral source bene-
10 fits; amending K.S.A. 60-3802, 60-3804 and 60-3805 and repealing the
11 existing sections.
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 60-3802 is hereby amended to read as follows: 60-
15 3802. In any action for personal injury or death, in which the claimant
16 demands judgment for damages ~~in excess of \$150,000~~, evidence of col-
17 lateral source benefits received or evidence of collateral source benefits
18 which are reasonably expected to be received in the future shall be
19 admissible.

20 Sec. 2. K.S.A. 60-3804 is hereby amended to read as follows: 60-
21 3804. In determining damages in an action for personal injury or death,
22 the trier of fact ~~shall~~ *may* determine the net collateral source benefits
23 received and the net collateral source benefits reasonably expected to be
24 received in the future. If the action for personal injury or death is tried
25 to a jury, *and the jury makes such determination*, the jury will be in-
26 structed to make such determination by itemization of the verdict.

27 Sec. 3. K.S.A. 60-3805 is hereby amended to read as follows: 60-
28 3805. (a) *In the event the trier of fact makes a net collateral source benefit*
29 *determination*, the amount of the judgment shall be reduced by the court
30 by the amount of net collateral source benefits received, or reasonably
31 expected to be received in the future but only to the extent that such
32 benefits exceed the aggregate amount by which:

33 (1) Such judgment was reduced pursuant to subsection (a) of K.S.A.
34 60-258a and amendments thereto;

35 (2) the claimant's ability to recover such judgment was limited by the
36 application of subsections (c) and (d) of K.S.A. 60-258a and amendments
37 thereto, other than by virtue of claimant's settlement with or decision not
38 to assert a legally enforceable claim against a named or an unnamed party;

39 (3) the amount to which the claimant's ability to recover such judg-
40 ment was limited by the insolvency or bankruptcy of a person; and

41 (4) the award of damages has been reduced because of a statutory
42 limit upon the recovery of damages.

43 (b) If there is no amount falling within subsections (a)(1) through

1 (a)(4) then the court shall reduce the judgment by the full amount of the
2 net collateral source benefits.

3 New Sec. 4. The provisions of this act shall be considered substantive
4 in nature.

5 New Sec. 5. The provisions of this act shall expire on July 1, 2009.

6 Sec. 6. K.S.A. 60-3802, 60-3804 and 60-3805 are hereby repealed.

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