

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0688.01 Richard Sweetman

SENATE BILL 11-107

SENATE SPONSORSHIP

Morse,

HOUSE SPONSORSHIP

Barker,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE RECOVERY OF NONECONOMIC DAMAGES IN A CIVIL**
102 **ACTION CONCERNING DAMAGES RESULTING FROM A DUI**
103 **INCIDENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law imposes a \$250,000 limit on noneconomic damages that may be recovered in a civil action. The bill creates an exception to this limit for actions concerning damages resulting from alcohol-related or drug-related driving incidents.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 13-21-102.5 (2), (3) (a), and (3) (b), Colorado
3 Revised Statutes, are amended, and the said 13-21-102.5 is further
4 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

5 **13-21-102.5. Limitations on damages for noneconomic loss or**
6 **injury.** (2) As used in this section:

7 (a) "ALCOHOL-RELATED OR DRUG-RELATED DRIVING INCIDENT"
8 MEANS AN INCIDENT IN WHICH A PERSON WHO IS DRIVING UNDER THE
9 INFLUENCE OF ALCOHOL OR ONE OR MORE DRUGS, AS DESCRIBED IN
10 SECTION 42-4-1307 (2) (b), C.R.S., OR DRIVING WHILE HIS OR HER ABILITY
11 IS IMPAIRED, AS DESCRIBED IN SECTION 42-4-1307 (2) (c), C.R.S., CAUSES
12 A LOSS OR INJURY TO ANOTHER PERSON.

13 ~~(a)~~ (b) "Derivative noneconomic loss or injury" means
14 nonpecuniary harm or emotional stress to persons other than the person
15 suffering the direct or primary loss or injury.

16 ~~(b)~~ (c) "Noneconomic loss or injury" means nonpecuniary harm
17 for which damages are recoverable by the person suffering the direct or
18 primary loss or injury, including pain and suffering, inconvenience,
19 emotional stress, and impairment of the quality of life. "Noneconomic
20 loss or injury" includes a damage recovery for nonpecuniary harm for
21 actions brought under section 13-21-201 or 13-21-202.

22 (3) (a) ~~In any civil action other than~~ EXCEPT FOR medical
23 malpractice actions AND ACTIONS CONCERNING DAMAGES RESULTING
24 FROM ALCOHOL-RELATED OR DRUG-RELATED DRIVING INCIDENTS, IN ANY
25 CIVIL ACTION in which damages for noneconomic loss or injury may be
26 awarded, the total of such damages shall not exceed the sum of two

1 hundred fifty thousand dollars, unless the court finds justification by clear
2 and convincing evidence therefor. In no case EXCEPT FOR ACTIONS
3 CONCERNING DAMAGES RESULTING FROM ALCOHOL-RELATED OR
4 DRUG-RELATED DRIVING INCIDENTS shall the amount of noneconomic loss
5 or injury damages exceed five hundred thousand dollars. The damages
6 for noneconomic loss or injury in a medical malpractice action shall not
7 exceed the limitations on noneconomic loss or injury specified in section
8 13-64-302.

9 (b) In any civil action OTHER THAN AN ACTION CONCERNING
10 DAMAGES RESULTING FROM AN ALCOHOL-RELATED OR DRUG-RELATED
11 DRIVING INCIDENT, no damages for derivative noneconomic loss or injury
12 may be awarded unless the court finds justification by clear and
13 convincing evidence therefor. In no case shall the amount of such
14 damages exceed two hundred fifty thousand dollars.

15 (7) NOTWITHSTANDING THE PROVISIONS OF SECTION 42-4-1713,
16 C.R.S., A RECORD OF THE CONVICTION OF ANY PERSON, INCLUDING A
17 PLEA OF GUILTY OR NOLO CONTENDERE, FOR ANY ALCOHOL-RELATED OR
18 DRUG-RELATED TRAFFIC VIOLATION DESCRIBED IN PART 13 OF ARTICLE 4
19 OF TITLE 42, C.R.S., SHALL BE ADMISSIBLE IN ANY COURT IN ANY CIVIL
20 ACTION SEEKING NONECONOMIC DAMAGES CAUSED BY AN
21 ALCOHOL-RELATED OR DRUG-RELATED DRIVING INCIDENT AS PRIMA FACIE
22 EVIDENCE THAT THE DRIVER WAS DRIVING UNDER THE INFLUENCE OF
23 ALCOHOL OR DRUGS OR DRIVING WHILE HIS OR HER ABILITY WAS
24 IMPAIRED BY ALCOHOL OR DRUGS.

25 SECTION 2. 13-21-102.5 (3), Colorado Revised Statutes, is
26 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

27 **13-21-102.5. Limitations on damages for noneconomic loss or**

1 injury. (3) (d) NOTWITHSTANDING ANY PROVISION OF ARTICLE 10 OF
2 TITLE 24, C.R.S., TO THE CONTRARY, THE EXCEPTIONS TO THE
3 LIMITATIONS ON DAMAGES FOR NONECONOMIC LOSS OR INJURY
4 DESCRIBED IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (3), WHICH
5 EXCEPTIONS CONCERN DAMAGES RESULTING FROM ALCOHOL-RELATED OR
6 DRUG-RELATED DRIVING INCIDENTS, SHALL APPLY REGARDLESS OF
7 WHETHER THE PERSON WHO CAUSED A LOSS OR INJURY TO ANOTHER
8 PERSON WHILE DRIVING UNDER THE INFLUENCE OF ALCOHOL OR ONE OR
9 MORE DRUGS IS A PUBLIC EMPLOYEE, AS DEFINED IN SECTION 24-10-103
10 (4), C.R.S.

11 **SECTION 3.** 13-20-806 (4) (a), Colorado Revised Statutes, is
12 amended to read:

13 **13-20-806. Limitation of damages.** (4) (a) In an action asserting
14 personal injury or bodily injury as a result of a construction defect in
15 which damages for noneconomic loss or injury or derivative noneconomic
16 loss or injury may be awarded, such damages shall not exceed the sum of
17 two hundred fifty thousand dollars. As used in this subsection (4),
18 "noneconomic loss or injury" has the same meaning as set forth in ~~section~~
19 ~~13-21-102.5 (2) (b)~~ SECTION 13-21-102.5 (2) (c), and "derivative
20 noneconomic loss or injury" has the same meaning as set forth in ~~section~~
21 ~~13-21-102.5 (2) (a)~~ SECTION 13-21-102.5 (2) (b).

22 **SECTION 4. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.