

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

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 to read:

4 **13-21-102.5. Limitations on damages for noneconomic loss or**
5 **injury.** (2) As used in this section:

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

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

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

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

1 and convincing evidence therefor. In no case shall the amount of
2 noneconomic loss or injury damages exceed five hundred thousand
3 dollars. The damages for noneconomic loss or injury in a medical
4 malpractice action shall not exceed the limitations on noneconomic loss
5 or injury specified in section 13-64-302.

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

12 **SECTION 2.** 13-20-806 (4) (a), Colorado Revised Statutes, is
13 amended to read:

14 **13-20-806. Limitation of damages.** (4) (a) In an action asserting
15 personal injury or bodily injury as a result of a construction defect in
16 which damages for noneconomic loss or injury or derivative noneconomic
17 loss or injury may be awarded, such damages shall not exceed the sum of
18 two hundred fifty thousand dollars. As used in this subsection (4),
19 "noneconomic loss or injury" has the same meaning as set forth in ~~section~~
20 ~~13-21-102.5 (2) (b)~~ SECTION 13-21-102.5 (2) (c), and "derivative
21 noneconomic loss or injury" has the same meaning as set forth in ~~section~~
22 ~~13-21-102.5 (2) (a)~~ SECTION 13-21-102.5 (2) (b).

23 **SECTION 3. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.