

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 348

(By Mr. WILLIAM W. SEIBERT)

PASSED March 13, 1959

In Effect 90 days from Passage



Filed in Office of the Secretary of State
of West Virginia MAR 20 1959
JOE F. BURDETT
SECRETARY OF STATE

ENROLLED
House Bill No. 348

(By MR. MYLES and MR. SEIBERT)

[Passed March 13, 1959; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recovering damages in wrongful death actions.

Be it enacted by the Legislature of West Virginia:

That section six, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 6. *Plaintiff in Such Action; Damages; Distribution; Limitation.*—Every such action shall be brought
2 by and in the name of the personal representative of
3 such deceased person, and the amount recovered in
4 every such action shall be distributed to the parties and
5 in the proportion provided by law in relation to the dis-
6 tribution of personal estate, left by persons dying in-
7

8 testate. In every such action the jury may give such
9 damages (a) as they shall deem fair and just, not ex-
10 ceeding ten thousand dollars: *Provided, however,* (b)
11 That if the plaintiff in such action shall prove by a pre-
12 ponderance of the evidence financial or pecuniary loss
13 sustained by a distributee or distributees of such de-
14 ceased person, the jury may give such further damages
15 as shall equal such financial or pecuniary loss to such
16 distributee or distributees, not exceeding the sum of
17 twenty-five thousand dollars as the total of all dam-
18 ages recoverable in such action, and the amount so re-
19 covered shall not be subject to any debts or liabilities
20 of the deceased.

21 Items of pecuniary loss or expenses recoverable under
22 general law by the personal representative of the de-
23 ceased for the benefit of the estate of the deceased, in-
24 cluding but not limited to loss or expense caused by
25 damage to property of the deceased, reasonable and
26 necessary expense incurred in medical or surgical treat-
27 ment, hospitalization, and burial of deceased shall not be
28 admissible in evidence or considered by the jury in

29 such action. Nothing herein contained shall bar the re-
30 covery of such items of loss or expense in an action proper
31 for such purpose.

32 In every case in which the jury shall give damages
33 for financial or pecuniary loss in such action, the jury
34 shall state in their verdict the part thereof given for
35 such financial or pecuniary loss.

36 Every such action shall be commenced within one
37 year after the death of such deceased person.

38 The provisions of this section shall not apply to actions
39 brought for the death of any person occurring prior to
40 the effective date hereof.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

W. N. Jasper Jr.
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the House of Delegates.

Takes effect *90 days from* passage.

W. H. M. M. M. M.
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Ralph J. Bean
President of the Senate

H. R. Pauling
Speaker House of Delegates

The within *vetoed* this the *20th*
day of *March*, 1959.

Governor