

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No. 78

(By Mr. Nyles and Mr. Seibert)

PASSED March 8, 1961

In Effect ninety Days from Passage

Filed in Office of the Secretary of State of West Virginia

MAR 17 1961 JOE F. BURDETT SECRETARY OF STATE

H. 78

ENROLLED

House Bill No. 78

(By MR. MYLES and MR. SEIBERT)

[Passed March 8, 1961; 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. *Party Plaintiff in Such Action; Damages; Distribution; Limitation.*—Every such action shall be brought by and in the name of the personal representative of such deceased person, and the amount recovered in every such action shall be distributed to the parties and in the proportion provided by law in relation to the distribution of personal estate, left by persons dying in-

8 testate. In every such action the jury may give such
9 damages as they shall deem fair and just, not exceeding
10 ten thousand dollars: *Provided, however,* If the plaintiff
11 in such action shall prove by a preponderance of the evi-
12 dence financial or pecuniary loss sustained by a distri-
13 butee or distributees of such deceased person, the jury
14 may give such further damages as shall equal such finan-
15 cial or pecuniary loss to such distributee or distributees,
16 not exceeding the sum of twenty-five thousand dollars
17 as the total of all damages recoverable in such action,
18 and the amount so recovered shall not be subject to any
19 debts or liabilities of the deceased.

20 Items of pecuniary loss or expenses recoverable under
21 general law by the personal representative of the de-
22 ceased for the benefit of the estate of the deceased, in-
23 cluding but not limited to loss or expense caused by dam-
24 age to property of the deceased, reasonable and necessary
25 expense incurred in medical or surgical treatment, hos-
26 pitalization, and burial of deceased shall not be admissable
27 in evidence or considered by the jury in such action. Noth-
28 ing herein contained shall bar the recovery of such items

29 of loss or expense in an action proper for such purpose.

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

34 Every such action shall be commenced within two years
35 after the death of such deceased person.

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

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

Thomas Davis, Jr.
Chairman Senate Committee

Mrs. H. H. Withrow
Chairman House Committee

Originated in the House.

Takes effect *ninety days from* passage.

Edward M. Mays
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Harvard Pearson
President of the Senate

Sulus W. Singleton Jr.
Speaker House of Delegates

The within *approved* this the *17th* day of *March*, 1961.

W. W. Barr
Governor



Filed in Office of the Secretary of State
of West Virginia **MAR 17 1961**
JOE F. BURDETT
SECRETARY OF STATE