

1 SB320
2 156344-1
3 By Senators Irons and Orr
4 RFD: Judiciary
5 First Read: 06-FEB-14

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, only punitive damages
9 and not compensatory damages may be awarded in an
10 action for wrongful death. Certain federal
11 corporations or entities are not liable for
12 punitive damages because Congress has not
13 explicitly provided for such liability.

14 This bill would provide that a department,
15 agency, corporation, or other instrumentality of
16 the federal government that is immune from
17 liability for punitive damages is liable for
18 compensatory damages assessed by a jury in an
19 action commenced for wrongful death.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 To amend Section 6-5-410, Code of Alabama 1975,
26 relating to wrongful death, to authorize the assessment of
27 compensatory damages by a jury against a department, agency,

1 corporation, or other instrumentality of the federal
2 government that is immune from liability for punitive damages.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 6-5-410, Code of Alabama 1975, is
5 amended to read as follows:

6 "§6-5-410.

7 "(a) A personal representative may commence an
8 action and recover such damages as the jury may assess in a
9 court of competent jurisdiction within the State of Alabama
10 where provided for in subsection (e), and not elsewhere, for
11 the wrongful act, omission, or negligence of any person,
12 persons, or corporation, his or her or their servants or
13 agents, whereby the death of the testator or intestate was
14 caused, provided the testator or intestate could have
15 commenced an action for the wrongful act, omission, or
16 negligence if it had not caused death.

17 "(b) The action shall not abate by the death of the
18 defendant, but may be revived against his or her personal
19 representative and may be maintained though there has not been
20 prosecution, conviction, or acquittal of the defendant for the
21 wrongful act, omission, or negligence.

22 "(c) The damages recovered are not subject to the
23 payment of the debts or liabilities of the testator or
24 intestate, but must be distributed according to the statute of
25 distributions.

26 "(d) The action must be commenced within two years
27 from and after the death of the testator or intestate.

1 "(e) For any cause of action brought pursuant to
2 this section, the action may only be filed in a county where
3 the deceased could have commenced an action for the alleged
4 wrongful act, omission, or negligence pursuant to Section
5 6-3-2 or 6-3-7, if the alleged wrongful act, omission, or
6 negligence had not caused death. Nothing in this subsection is
7 intended to override Rule 82 of the Alabama Rules of Civil
8 Procedure.

9 "(f) A department, agency, corporation, or other
10 instrumentality of the federal government that is immune from
11 liability for punitive damages shall be liable for
12 compensatory damages assessed by a jury in an action commenced
13 under this section.

14 "~~(f)(g)~~ This section Subsections (a) through (e)
15 shall only apply to actions filed after June 9, 2011.
16 Subsection (f) shall only apply to actions filed after the
17 effective date of the act adding this section."

18 Section 2. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.