

By: Senator(s) Blackmon

To: Judiciary, Division A

SENATE BILL NO. 2494

1 AN ACT TO AMEND SECTION 11-7-13, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE RECOVERY OF EXPENSES OR DAMAGES INCURRED BY THE DECEASED
3 PRIOR TO THE DEATH; TO PROVIDE FOR THE DISTRIBUTION OF DAMAGES
4 REGARDLESS OF WHETHER THE LEGAL REPRESENTATIVE OF THE DECEDENT'S
5 ESTATE IS A PARTY TO THE ACTION UNDER THIS SECTION; AND FOR
6 RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 11-7-13, Mississippi Code of 1972, is
9 amended as follows:

10 11-7-13. Whenever the death of any person or of any unborn
11 quick child shall be caused by any real, wrongful or negligent act
12 or omission, or by such unsafe machinery, way or appliances as
13 would, if death had not ensued, have entitled the party injured or
14 damaged thereby to maintain an action and recover damages in
15 respect thereof, or whenever the death of any person or of any
16 unborn quick child shall be caused by the breach of any warranty,
17 express or implied, of the purity or fitness of any foods, drugs,
18 medicines, beverages, tobacco or any and all other articles or
19 commodities intended for human consumption, as would, had the
20 death not ensued, have entitled the person injured or made ill or



21 damaged thereby, to maintain an action and recover damages in
22 respect thereof, and such deceased person shall have left a widow
23 or children or both, or husband or father or mother, or sister, or
24 brother, the person or corporation, or both that would have been
25 liable if death had not ensued, and the representatives of such
26 person shall be liable for damages, notwithstanding the death, and
27 the fact that death was instantaneous shall in no case affect the
28 right of recovery. The action for such damages may be brought in
29 the name of the personal representative of the deceased person or
30 unborn quick child for the benefit of all persons entitled under
31 the law to recover, or by widow for the death of her husband, or
32 by the husband for the death of the wife, or by the parent for the
33 death of a child or unborn quick child, or in the name of a child,
34 or in the name of a child for the death of a parent, or by a
35 brother for the death of a sister, or by a sister for the death of
36 a brother, or by a sister for the death of a sister, or a brother
37 for the death of a brother, or all parties interested may join in
38 the suit, and there shall be but one (1) suit for the same death
39 which shall ensue for the benefit of all parties concerned, but
40 the determination of such suit shall not bar another action unless
41 it be decided on its merits. Except as otherwise provided in
42 Section 11-1-69, in such action the party or parties suing shall
43 recover such damages allowable by law as the jury may determine to
44 be just, taking into consideration all the damages of every kind



to the decedent and all damages of every kind to any and all parties interested in the suit.

This section shall apply to all personal injuries of servants and employees received in the service or business of the master or employer, where such injuries result in death, and to all deaths caused by breach of warranty, either express or implied, of the purity and fitness of foods, drugs, medicines, beverages, tobacco or other articles or commodities intended for human consumption.

Any person entitled to bring a wrongful death action may assert or maintain a claim for any breach of expressed warranty or for any breach of implied warranty. A wrongful death action may be maintained or asserted for strict liability in tort or for any cause of action known to the law for which any person, corporation, legal representative or entity would be liable for damages if death had not ensued.

In an action brought pursuant to the provisions of this section by the widow, husband, child, father, mother, sister or brother of the deceased or unborn quick child, or by all interested parties, such party or parties may recover as damages property damages and funeral, medical or other related expenses incurred by or for the deceased as a result of such wrongful or negligent act or omission or breach of warranty or any expenses or damages incurred by the deceased prior to the death, including personal injury damages during the deceased's lifetime, whether an estate has been opened or not. Any widow, husband, child, father,



70 mother, sister or brother of the deceased or unborn quick child,
71 or interested party may bring an action pursuant to the provisions
72 of this section outside an estate, regardless of whether there are
73 real or personal assets of an estate. Any amount, but only such
74 an amount, as may be recovered for property damage, funeral,
75 medical or other related expenses shall be subject only to the
76 payment of the debts or liabilities of the deceased for property
77 damages, funeral, medical or other related expenses. All other
78 damages recovered under the provisions of this section shall not
79 be subject to the payment of the debts or liabilities of the
80 deceased, except as hereinafter provided, and such damages shall
81 be distributed, regardless of whether the legal representative of
82 the decedent's estate is a party to the action under this section,
83 as follows:

84 Damages for the injury and death of a married man shall be
85 equally distributed to his wife and children, and if he has no
86 children all shall go to his wife; damages for the injury and
87 death of a married woman shall be equally distributed to the
88 husband and children, and if she has no children all shall go to
89 the husband; and if the deceased has no husband or wife, the
90 damages shall be equally distributed to the children; if the
91 deceased has no husband, nor wife, nor children, the damages shall
92 be distributed equally to the father, mother, brothers and
93 sisters, or such of them as the deceased may have living at his or
94 her death. If the deceased have neither husband, nor wife, nor



95 children, nor father, nor mother, nor sister, nor brother, then
96 the damages shall go to the legal representative, subject to debts
97 and general distribution, and the fact that the deceased was
98 instantly killed shall not affect the right of the legal
99 representative to recover. All references in this section to
100 children shall include descendants of a deceased child, such
101 descendants to take the share of the deceased child by
102 representation. There shall not be, in any case, a distinction
103 between the kindred of the whole and half blood of equal degree.
104 The provisions of this section shall apply to illegitimate
105 children on account of the death of the mother and to the mother
106 on account of the death of an illegitimate child or children, and
107 they shall have all the benefits, rights and remedies conferred by
108 this section on legitimates. The provisions of this section shall
109 apply to illegitimate children on account of the death of the
110 natural father and to the natural father on account of the death
111 of the illegitimate child or children, and they shall have all the
112 benefits, rights and remedies conferred by this section on
113 legitimates, if the survivor has or establishes the right to
114 inherit from the deceased under Section 91-1-15.

115 Any rights which a blood parent or parents may have under
116 this section are hereby conferred upon and vested in an adopting
117 parent or adopting parents surviving their deceased adopted child,
118 just as if the child were theirs by the full-blood and had been
119 born to the adopting parents in lawful wedlock.



120 The list of persons in this section who may bring a wrongful
121 death action is exclusive and only those persons shall be
122 considered interested parties who are entitled to bring an action
123 under this section.

124 A defendant in an action under this section is authorized
125 within ninety (90) days of filing an answer, to request that the
126 plaintiff initiate the process of determining heirs. Such
127 determination must be resolved before commencement of trial.

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2025.

