

1 HB358
2 115277-1
3 By Representatives Galliher, Ward, Hill, Morrow, Ford and
4 Sherer
5 RFD: Judiciary
6 First Read: 19-JAN-10

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8 SYNOPSIS: This bill would establish a cause of action
9 for damages for the death of an individual against
10 persons convicted of manufacturing, distributing,
11 possessing, or selling certain controlled
12 substances.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To establish a cause of action for damages for the
19 death of an individual against persons convicted of
20 manufacturing, distributing, possessing, or selling certain
21 controlled substances.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. As used in this act, the term "controlled
24 substances" means controlled substances contained in Schedules
25 I through V in Sections 20-2-20 through 20-2-31, Code of
26 Alabama 1975.

1 Section 2. (a) A person who is convicted of
2 knowingly and willfully manufacturing, distributing, bringing
3 into, or transporting in the state a controlled substance
4 pursuant to Chapter 12, Article 5, Division 2 and Division 3,
5 Title 13A, Code of Alabama 1975, is liable for damages in a
6 civil action as provided in this section.

7 (b) Instead of bringing a wrongful death action
8 pursuant to Sections 6-5-391, 6-5-410, or 6-5-411, Code of
9 Alabama 1975, against a person described in subsection (a), a
10 civil action for damages for the death of an individual caused
11 by the individual's use of a controlled substance may be
12 brought under this act by a parent, legal guardian, child,
13 spouse, or sibling of the individual.

14 (c) A person entitled to bring a civil action under
15 this section may seek damages from a person described in
16 subsection (a) if the controlled substance manufactured,
17 distributed, dispensed, brought into, or transported in the
18 state by the person was actually used by, and was the
19 proximate cause of the death of, an individual.

20 (d) A law enforcement officer who acts in
21 furtherance of an official investigation or a person who acts
22 at the direction or in cooperation with a law enforcement
23 officer in an official investigation is not liable under this
24 section.

25 (e) A person entitled to bring a civil action under
26 this section may recover any or all of the following:

1 (1) Economic damages and any other pecuniary loss
2 sustained by the plaintiff that was proximately caused by the
3 death of an individual from the individual's unlawful use of a
4 controlled substance.

5 (2) Noneconomic damages, including pain and
6 suffering, emotional distress, mental anguish, loss of
7 enjoyment, loss of companionship, services, and consortium,
8 and other nonpecuniary loss sustained by the plaintiff that
9 was proximately caused by the death of an individual from the
10 individual's unlawful use of a controlled substance.

11 (f) A defendant in an action under this section may
12 not raise a defense of assumption of risk or contributory
13 negligence based on the use of a controlled substance by the
14 deceased individual.

15 Section 3. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.