

# HOUSE . . . . . No. 3476

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, March 16, 1962.

The committee on the Judiciary, to whom was referred the petition (accompanied by bill, House, No. 247) of Gregory B. Khachadorian for legislation removing maximum and minimum limitations of recovery in tort actions for death; the petition (accompanied by bill, House, No. 1276) of John J. Campbell and John R. Sennott, Jr., for an increase in the minimum and maximum amount of damages recoverable in actions for death caused by negligence; and the petition (accompanied by bill, House, No. 2964) of Beryl W. Cohen for legislation to eliminate minimum or maximum amounts recoverable under the death statute in accidents involving motor vehicles, aircraft and common carriers, report the accompanying bill (House, No. 3476).

For the committee,

JOHN J. CAMPBELL.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Two.

AN ACT PROVIDING FOR AN INCREASE IN THE MINIMUM AND MAXIMUM AMOUNT OF DAMAGES RECOVERABLE IN ACTIONS FOR DEATH CAUSED BY NEGLIGENCE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 229 of the General Laws is hereby  
2 amended by striking out section 2, as most recently amended  
3 by section 1 of chapter 238 of the acts of 1958, and inserting in  
4 place thereof the following section: —

5 *Section 2.* A person who (1) by his negligence causes the  
6 death of a person in the exercise of due care, or (2) by wilful,  
7 wanton or reckless act causes the death of a person under such  
8 circumstances that the deceased could have recovered damages  
9 for personal injuries if his death had not resulted, or (3) operates  
10 a common carrier of passengers and by his negligence causes  
11 the death of a passenger, or (4) operates a common carrier of  
12 passengers and by his wilful, wanton or reckless act causes the  
13 death of a passenger under such circumstances that the deceased  
14 could have recovered damages for personal injuries if his death  
15 had not resulted, shall be liable in damages in the sum of not  
16 less than three thousand nor more than thirty thousand dollars,  
17 to be assessed with reference to the degree of his culpability and  
18 distributed as provided in section one; except that (1) the liability  
19 of an employer to a person in his employment shall not be  
20 governed by this section, (2) a person operating a railroad shall  
21 not be liable for negligence in causing the death of a person while  
22 walking or being upon such railroad contrary to law or to the  
23 reasonable rules and regulations of the carrier, and (3) a person  
24 operating a street railway or electric railroad shall not be liable  
25 for negligence for causing the death of a person while walking  
26 or being upon that part of the street railway or electric railroad  
27 not within the limits of a highway. A person shall be liable for  
28 the negligence or the wilful, wanton or reckless act of his agents  
29 or servants while engaged in his business to the same extent and

30 subject to the same limits as he would be liable under this section  
31 for his own act, except that the damages shall be assessed with  
32 reference to the degree of culpability of his agents or servants.  
33 Damages under this section shall be recovered in an action of  
34 tort by the executor or administrator of the deceased. No re-  
35 covery shall be had under this section for a death which does  
36 not occur within two years after the injury which caused the  
37 death. An action to recover damages under this section shall  
38 be commenced within one year from the date of death or within  
39 such time thereafter as is provided by sections four, four B,  
40 nine or ten of chapter two hundred and sixty.

1 SECTION 2. This act shall take effect on January first, nine-  
2 teen hundred and sixty-three, and shall apply only to actions  
3 for death resulting from injuries sustained or accidents occurring  
4 on or after said date. The provisions of law applicable to actions  
5 for death, as in effect from time to time prior to the effective  
6 date of this act, shall continue to be applicable to such actions  
7 resulting from injuries which were sustained or accidents which  
8 occurred prior to the effective date of this act, in accordance  
9 with such provisions as in effect at the time the injury was sus-  
10 tained or the accident occurred.

