

## Session 116 - (2005-2006)

### **S 0002 General Bill, By Leatherman, Bryant, Mescher, Gregory, Alexander, Fair and Richardson**

**Summary:** Economic Development, Citizens, and Small Business Protection Act of 2005; Tort Reform Bill

A BILL TO ENACT THE SOUTH CAROLINA ECONOMIC DEVELOPMENT, CITIZENS, AND SMALL BUSINESS PROTECTION ACT OF 2005 BY ADDING CHAPTER 32 TO TITLE 15 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976 SO AS TO ESTABLISH A LIMIT OF TWO HUNDRED FIFTY THOUSAND DOLLARS FOR NONECONOMIC DAMAGES THAT MAY BE AWARDED A PLAINTIFF IN A PERSONAL INJURY ACTION AND TO PROVIDE THAT PUNITIVE DAMAGES MAY BE AWARDED FOR FRAUDULENT OR WILFUL OR INTENTIONAL CONDUCT SPECIFICALLY INTENDED TO HARM THE PERSON SEEKING PUNITIVE DAMAGES, TO REQUIRE A PLAINTIFF, PRIOR TO JUDGMENT, TO ELECT BETWEEN PUNITIVE DAMAGES AND OTHER DAMAGES AVAILABLE UNDER ANOTHER REMEDY, TO SPECIFY FACTORS THAT MUST BE CONSIDERED IN AWARDING PUNITIVE DAMAGES; TO ADD CHAPTER 40 TO TITLE 15 SO AS TO PROVIDE THAT IN ALL TORT ACTIONS EVIDENCE OF COLLATERAL SOURCE PAYMENTS TO BE MADE TO THE CLAIMANT IS ADMISSIBLE AND TO REQUIRE SPECIFIC FINDINGS TO BE MADE FOR THE AMOUNT OF CERTAIN PAST AND FUTURE DAMAGES; TO AMEND SECTION 34-31-20, AS AMENDED, RELATING TO THE ANNUAL LEGAL RATE OF INTEREST ON MONEY DECREES AND JUDGMENTS, SO AS TO CHANGE THE INTEREST RATE FROM TWELVE PERCENT TO SIX PERCENT; TO AMEND SECTION 15-1-310, RELATING TO IMMUNITY FROM LIABILITY FOR PERSONS, WHO IN GOOD FAITH, RENDER EMERGENCY CARE AT THE SCENE OF AN ACCIDENT, SO AS PROVIDE IMMUNITY TO HEALTH CARE PROVIDERS, WHO WITH NO EXPECTATION OF PAYMENT, RENDER MEDICAL CARE AND TO APPLY THE LIMITS OF LIABILITY PROVIDED FOR IN THE TORT CLAIMS ACT FOR ANY CLAIM BROUGHT AGAINST SUCH PERSONS; TO ADD SECTION 15-1-315 SO AS TO PROVIDE IMMUNITY FROM LIABILITY TO A HEALTH CARE PROVIDER FOR AN INJURY SUSTAINED BY A PATIENT FROM TAKING A PRESCRIPTION DRUG OR USING A MEDICAL DEVICE PRESCRIBED BY THE PROVIDER IN ACCORDANCE WITH INSTRUCTIONS OF THE UNITED STATES FOOD AND DRUG ADMINISTRATION; TO AMEND SECTION 56-5-6540, AS AMENDED, RELATING TO VIOLATIONS OF MANDATORY SEATBELT USAGE, SO AS TO PROVIDE THAT SUCH VIOLATIONS ARE ADMISSIBLE TO PROVE CONTRIBUTORY OR COMPARATIVE NEGLIGENCE OR CERTAIN OTHER DEFENSES IN A CIVIL ACTION; TO ADD CHAPTER 47 TO TITLE 15 SO AS TO ESTABLISH PROCEDURES FOR A HOMEOWNER OR PURCHASER TO ASSERT A CLAIM AGAINST A CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL FOR A CONSTRUCTION DEFECT IN A RESIDENTIAL DWELLING, TO REQUIRE A CLAIMANT TO COMPLY WITH THESE PROCEDURES BEFORE COMMENCING LITIGATION FOR SUCH DEFECTS, AND TO PROHIBIT A PERSON FROM PROVIDING ANYTHING OF MONETARY VALUE TO A PROPERTY MANAGER, MEMBER. OR OFFICER OF AN EXECUTIVE BOARD OF A HOMEOWNER'S ASSOCIATION TO INDUCE THE INDIVIDUAL TO ENCOURAGE OR DISCOURAGE THE ASSOCIATION TO FILE A CLAIM FOR SUCH DEFECTS AND TO PROVIDE PENALTIES FOR VIOLATIONS; TO AMENDED SECTION 15-78-20, AS AMENDED, RELATING TO THE TORT CLAIMS ACT, SO AS TO DELETE PROVISIONS AUTHORIZING RECOVERY AGAINST A GOVERNMENTAL HEALTH FACILITY FOR A CLAIM ARISING BEFORE THE EFFECTIVE DATE OF THE TORT CLAIMS ACT IF THE FACILITY MAINTAINED LIABILITY INSURANCE COVERAGE AND TO DELETE THE PROVISION SPECIFICALLY DELAYING INCLUSION OF PHYSICIANS AND DENTISTS IN THE TORT CLAIMS ACT UNTIL JANUARY 1, 1989; TO AMEND SECTION 15-78-30, AS AMENDED, RELATING TO THE DEFINITION OF TERMS USED IN THE TORT CLAIMS ACT, SO AS TO REVISE THE DEFINITION OF "EMPLOYEE" AND "SCOPE OF OFFICIAL DUTY" TO INCLUDE HEALTH CARE PROVIDERS RENDERING CARE UNDER MEDICAID AND OTHER PUBLICLY FUNDED HEALTH CARE PROGRAMS AND TO DEFINE "DISCRETIONARY ACT"; TO AMEND SECTIONS 15-78-70 AND 15-78-120, BOTH AS AMENDED, RELATING RESPECTIVELY TO THE STATE TORT CLAIMS ACT BEING THE EXCLUSIVE REMEDY FOR CLAIMS AGAINST THE STATE FOR ACTS OF ITS EMPLOYEES AND TO LIMITATIONS ON THE AMOUNT OF DAMAGES A PERSON MAY RECOVER, SO AS TO DELETE PROVISIONS PROVIDING NO LIMIT ON THE AMOUNT OF LIABILITY AGAINST PHYSICIANS OR DENTISTS RENDERING SERVICES WHICH ARE PAID FROM A SOURCE OTHER THAN A GOVERNMENTAL SALARY AND TO DELETE PROVISIONS WHICH ESTABLISH A HIGHER LIMIT OF LIABILITY UNDER THE TORT CLAIMS ACT FOR ACTIONS AGAINST GOVERNMENTAL PHYSICIANS AND DENTISTS ACTING WITHIN THE SCOPE OF THEIR GOVERNMENTAL EMPLOYMENT; TO ADD SECTION 15-78-55 SO AS TO PROVIDE THAT EACH EXCEPTION TO THE WAIVER OF IMMUNITY UNDER THE TORT CLAIMS ACT IS SEPARATE FROM OTHER EXCEPTIONS AND EACH RENDERS THE GOVERNMENTAL ENTITY IMMUNE; TO AMEND SECTION 15-78-100, AS AMENDED, RELATING TO THE STATUTE OF LIMITATIONS AND JURISDICTION UNDER THE TORT CLAIMS ACT, SO AS TO AUTHORIZE A GOVERNMENTAL ENTITY TO IMPEAD A PERSON OR ENTITY IN AN ACTION; TO AMEND SECTION 15-3-640, RELATING TO ACTIONS BASED ON DEFECT OR UNSAFE CONDITION OF IMPROVEMENT TO REAL PROPERTY, SO AS TO CHANGE THE STATUTE OF LIMITATIONS

FROM THIRTEEN YEARS TO SIX YEARS; TO ADD SECTION 15-3-645 SO AS TO ESTABLISH A TEN YEAR STATUTE OF LIMITATIONS ON ACTIONS BASED UPON AN ALLEGED DEFECT OR FAILURE IN A PRODUCT; TO ADD CHAPTER 41 TO TITLE 15 SO AS TO PROVIDE THAT IN AN ACTION FOR PERSONAL INJURY, PROPERTY DAMAGE, OR WRONGFUL DEATH, THE LIABILITY FOR EACH DEFENDANT IS SEVERAL ONLY AND MUST BE ALLOCATED TO THE DEFENDANTS BASED ON EACH DEFENDANT'S PERCENTAGE OF FAULT AND TO ESTABLISH CRITERIA FOR ESTABLISHING THE PERCENTAGES OF FAULT; TO AMEND CHAPTER 36, TITLE 15, RELATING TO SOUTH CAROLINA FRIVOLOUS CIVIL PROCEEDINGS SANCTIONS ACT, SO AS TO REPLACE THE PROVISIONS OF THAT CHAPTER WITH PROVISIONS REQUIRING AN ATTORNEY FOR A PLAINTIFF TO SIGN DOCUMENTS FILED IN A CIVIL OR ADMINISTRATIVE ACTION, TO PROVIDE THAT THE SIGNING CONSTITUTES CERTIFICATION THAT THE DOCUMENT IS NOT FRIVOLOUS OR INTERPOSED FOR DELAY, AND TO PROVIDE SANCTIONS; TO AMEND SECTION 15-7-30, RELATING TO ACTIONS WHICH MUST BE TRIED IN THE COUNTY IN WHICH THE DEFENDANT RESIDES, SO AS TO FURTHER PROVIDE FOR THE PROPER VENUE IF THE DEFENDANT IS A NONRESIDENT, A DOMESTIC CORPORATION, OR A FOREIGN CORPORATION; TO REPEAL SECTION 15-33-135, RELATING TO THE EVIDENTIARY STANDARD FOR PROVING PUNITIVE DAMAGES; TO REPEAL SECTION 44-7-50, RELATING TO THE MODIFICATION OF THE DOCTRINES OF CHARITABLE AND SOVEREIGN IMMUNITY; TO REPEAL SECTION 58-23-90, RELATING TO THE PROPER VENUE IN WHICH TO BRING AN ACTION AGAINST A LICENSED MOTOR CARRIER; AND TO REPEAL CHAPTER 38, TITLE 15, RELATING TO THE UNIFORM CONTRIBUTION AMONG TORTFEASORS ACT.

<b>12/08/04</b>	<b>Senate</b>	<b>Prefiled</b>
<b>12/08/04</b>	<b>Senate</b>	<b>Referred to Committee on Judiciary</b>
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