

## Session 118 - (2009-2010)

### **S 0350 General Bill, By L. Martin, Cleary, Alexander, Bryant, Campbell, Davis, Fair, Mulvaney, O'Dell, Peeler, Ryberg, Shoopman, Verdin and Grooms**

**Summary:** Civil Fairness in Civil Justice Act

A BILL RELATING TO REFORM OF THE SOUTH CAROLINA CIVIL JUSTICE SYSTEM, BY PROVIDING FOR THE SOUTH CAROLINA FAIRNESS IN CIVIL JUSTICE ACT, TO AMEND CHAPTER 32 OF TITLE 15 OF THE 1976 CODE, RELATING TO DAMAGES IN PERSONAL INJURY ACTIONS, TO PROVIDE LIMITS ON THE AWARD OF NONECONOMIC AND PUNITIVE DAMAGES IN ALL PERSONAL INJURY ACTIONS, AND TO PROVIDE FOR CERTAIN PROCEDURES AND REQUIREMENTS RELATING TO THE AWARD OF THESE DAMAGES; TO AMEND CHAPTER 7, TITLE 1 OF 1976 CODE, BY ADDING SECTION 1-7-750, TO PROVIDE THE PRIVATE ATTORNEY RETENTION SUNSHINE ACT, TO GOVERN THE RETENTION OF PRIVATE ATTORNEYS BY THE ATTORNEY GENERAL OR A SOLICITOR, TO PROVIDE TERMS AND CONDITIONS GOVERNING THE RETAINER AGREEMENT INCLUDING LIMITS ON THE COMPENSATION OF OUTSIDE COUNSEL IN CONTINGENCY FEE CASES; TO AMEND SECTION 15-3-670, RELATING TO LIMITATIONS ON ACTIONS BASED ON UNSAFE OR DEFECTIVE IMPROVEMENTS TO REAL PROPERTY, TO PROVIDE THAT THE VIOLATION OF A BUILDING CODE DOES NOT CONSTITUTE PER SE FRAUD, GROSS NEGLIGENCE, OR RECKLESSNESS; TO AMEND ARTICLE 1, CHAPTER 5, TITLE 15 OF THE 1976 CODE, BY ADDING SECTION 15-3-160, TO PROVIDE A REBUTTABLE PRESUMPTION THAT A MANUFACTURER OR SELLER IS NOT LIABLE FOR A PRODUCT IF IT IS MANUFACTURED OR SOLD IN A MANNER APPROVED BY A GOVERNMENT AGENCY; TO AMEND CHAPTER 5, TITLE 15 OF THE 1976 CODE, BY ADDING SECTION 15-5-10, TO PROVIDE REQUIREMENTS AND PROCEDURES TO BRING, MAINTAIN, AND CERTIFY CLASS ACTIONS; TO AMEND SECTION 15-73-10 OF THE 1976 CODE, RELATING TO THE LIABILITY OF A SELLER FOR A DEFECTIVE PRODUCT, TO PROVIDE THAT THE SELLER IS NOT SUBJECT TO TORT LIABILITY FOR DAMAGE ONLY CAUSED TO THE PRODUCT ITSELF; TO AMEND SECTION 18-9-130 OF 1976 CODE, RELATING TO THE EFFECT OF A NOTICE OF APPEAL ON THE EXECUTION OF JUDGMENT, TO PROVIDE LIMITS FOR APPEAL BONDS; TO AMEND SECTIONS 33-6-220 AND 33-44-303, RELATING TO CORPORATIONS AND LIMITED LIABILITY COMPANIES, TO PROVIDE THAT A JUDGMENT AGAINST A CORPORATION OR LIMITED LIABILITY COMPANY IS A PREREQUISITE TO AN ALTER EGO CLAIM TO PIERCE THE CORPORATE VEIL; TO AMEND SECTION 39-5-20 OF THE 1976 CODE, RELATING TO UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES, TO PROVIDE ACTIONS OR TRANSACTIONS OTHERWISE PERMITTED OR REGULATED BY THE FEDERAL TRADE COMMISSION OR ANY OTHER REGULATORY BODY OR OFFICE ACTING UNDER STATUTORY AUTHORITY OF THIS STATE OR THE UNITED STATES ARE NOT COVERED BY THE ACT; TO AMEND SECTION 39-5-140, RELATING TO AN ACTION FOR DAMAGES ARISING OUT OF AND UNFAIR OR DECEPTIVE TRADE PRACTICE, TO PROVIDE THAT A PERSON SEEKING DAMAGES MUST SUFFER "OUT-OF-POCKET EXPENSES" AND TO DEFINE THIS TERM; AND TO AMEND SECTION 56-5-6540, RELATING TO THE PENALTIES FOR THE MANDATORY USE OF SEATBELTS, TO PROVIDE THAT A VIOLATION MAY BE CONSIDERED IN A CIVIL ACTION AS EVIDENCE OF COMPARATIVE NEGLIGENCE OR AS EVIDENCE OF FAILURE TO MITIGATE DAMAGES.

**01/29/09 Senate Introduced and read first time SJ-7**

**01/29/09 Senate Referred to Committee on Judiciary SJ-7**

**02/02/09 Senate Referred to Subcommittee: L.Martin (ch), Rankin, Hutto, Bright, Davis**

**01/12/10 Senate Referred to Subcommittee: L.Martin (ch), Rankin, Hutto, Malloy, Campsen, Bright, Davis**