

## Session 116 - (2005-2006)

### H 4217 General Bill, By Sandifer and Leach

#### Summary: Workers' Compensation Act

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 42-1-180 SO AS TO LIMIT THE DISABILITY RATING ESTABLISHED BY THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION TO BE LESS THAN BUT MAY NOT EXCEED A MAXIMUM OF ONE HUNDRED FIFTY PERCENT OF THE AMERICAN MEDICAL ASSOCIATION GUIDELINES FOR IMPAIRMENT; BY ADDING SECTION 42-1-190 SO AS TO ELIMINATE ANY COMPENSATION, LOST WAGES OR MEDICAL, PAYABLE TO THE INJURED WORKER WHEN ALCOHOL, ILLEGAL, OR LEGAL SUBSTANCES ARE FOUND TO BE PRESENT IN THE PERSON'S BODY WHICH MAY BE INFERRED TO CAUSE THE ACCIDENT AND INJURY OR DEATH; BY ADDING SECTION 42-1-200 SO AS TO ELIMINATE COMPENSATION, LOST WAGES OR MEDICAL, PAYABLE TO THE INJURED WORKER WHEN THE ACCIDENT WAS INTENTIONAL, OR WHEN THE INJURED FAILED TO FOLLOW COMPANY, STATE, OR FEDERAL POLICIES, RULES, AND REGULATIONS; BY ADDING SECTION 42-1-210 SO AS TO ELIMINATE ANY COMPENSATION, LOST WAGES OR MEDICAL, PAYABLE TO ANY INJURED WORKER WHEN THE INJURED WORKER IS AN ILLEGAL ALIEN AND HAS GAINED EMPLOYMENT THROUGH FRAUDULENT MEANS OR METHODS, OR BOTH; BY ADDING SECTION 42-1-378 SO AS TO ELIMINATE CONCURRENT JURISDICTION BETWEEN THE SOUTH CAROLINA WORKERS' COMPENSATION ACT AND THE FEDERAL EMPLOYERS' LIABILITY ACT, THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT, OR ANY OF ITS EXTENSIONS, AND THE JONES ACT; BY ADDING SECTION 42-9-95 SO AS TO NOT PAY LOST WAGE COMPENSATION TO AN INJURED WORKER DURING ALL PERIODS OF TIME WHILE THE INJURED WORKER IS INCARCERATED AND TO PROVIDE A PAYMENT PROCEDURE IF THE EMPLOYEE IS THE SOLE PROVIDER FOR DEPENDENTS; BY ADDING SECTION 42-15-85 SO AS TO DEFINE "EXPERT WITNESS" IN A WORKERS' COMPENSATION CLAIM, TO PROVIDE THAT THE BURDEN OF PROOF IS ON THE CLAIMANT, AND TO PROVIDE THAT CAUSATION IN MEDICALLY COMPLEX WORKERS' COMPENSATION CASES MUST BE PROVEN BY EXPERT WITNESS TESTIMONY; TO AMEND SECTION 42-9-30, AS AMENDED, RELATING TO THE AMOUNT OF COMPENSATION AND PERIOD OF DISABILITY FOR CERTAIN INJURIES, SO AS TO ELIMINATE THE PRESUMPTION OF TOTAL DISABILITY IN CASES WHERE THERE IS FIFTY PERCENT OR MORE LOSS OF USE OF THE BACK; TO AMEND SECTION 42-15-95, AS AMENDED, RELATING TO WORKERS' COMPENSATION CLAIMS AND THE DISCLOSURE OF INFORMATION BY HEALTH CARE PROVIDERS, SO AS TO DEFINE "MEDICAL AND VOCATIONAL INFORMATION" AND "REHABILITATION PROFESSIONAL", AND TO PROVIDE THAT THE MANNER OF COMMUNICATION BETWEEN THE HEALTH CARE PROVIDER AND THE EMPLOYER IS NOT LIMITED IF THE INFORMATION IS RELATED TO A WORKERS' COMPENSATION CLAIM; AND TO AMEND SECTION 42-9-260, AS AMENDED, RELATING TO AN EMPLOYER REQUESTING A HEARING BE HELD TO DETERMINE TERMINATION OF TEMPORARY DISABILITY PAYMENTS, SO AS TO PROVIDE IF AN EMPLOYEE HAS RECEIVED TEMPORARY DISABILITY PAYMENTS FOR AT LEAST ONE YEAR, THE EMPLOYEE IS PRESUMED TO HAVE REACHED MAXIMUM MEDICAL IMPROVEMENT, AND THE EMPLOYER MAY REQUEST A HEARING TO DETERMINE A PERMANENT DISABILITY AWARD, AND TO PROVIDE THAT THE HEARING MUST BE HELD WITHIN SIXTY DAYS OF THE DATE THE EMPLOYER REQUESTED A HEARING.

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