

## Session 109 - (1991-1992)

**H 4521 General Bill, By Martin, R.L. Altman, Bailey, B.O. Baker, H. Brown, D.M. Bruce, Cato, R.S. Corning, B. Council, Elliott, Fair, R.C. Fulmer, H.M. Hallman, P.B. Harris, Haskins, B.L. Hendricks, D.N. Holt, M.F. Jaskwhich, Keegan, H.H. Keyserling, Kirsh, J.R. Klapman, Koon, Lanford, Littlejohn, S.G. Manly, C.V. Marchbanks, McCraw, A.C. McGinnis, Meacham, Phillips, Quinn, J. Rama, Rhoad, Riser, Sharpe, J.S. Shissias, J.J. Snow, E.C. Stoddard, C.H. Stone, C.C. Wells, J.B. Wilder, D. Williams, S.S. Wofford, D.A. Wright and Young-Brickell**

A Bill to amend the Code of Laws of South Carolina, 1976, by adding Chapter 78 to Title 38 so as to enact the "Consumer Freedom of Choice in Motor Vehicle Insurance Act"; to amend Section 38-77-30, as amended, relating to definitions under the automobile insurance Chapter of Title 38, so as to provide that "automobile insurance policy" also includes the personal protection policy as defined in Section 38-78-30; to amend Section 38-77-110, as amended, relating to automobile insurance, the requirement upon insurers to insure, and exceptions, so as to provide that no insurer is required to write private passenger automobile insurance with higher limits of coverage than two hundred fifty thousand dollars for added personal protection coverage as defined in Section 38-78-30; to amend the 1976 Code by adding Section 38-77-355 so as to provide that, in a claim or action for personal injury or wrongful death arising out of the ownership, operation, use, or maintenance of a motor vehicle, the court shall admit into evidence the total amount paid to the claimant from collateral sources and require an instruction to the jury to deduct from its verdict the value of all benefits received by the claimant from collateral sources; to amend Section 38-77-280, as amended, relating to collision coverage and comprehensive coverage under the provisions of law on automobile insurance, so as to delete the existing provisions of the Section and provide that after September 30, 1992, automobile insurers may refuse to write or renew private passenger automobile physical damage insurance coverage for an applicant or existing policyholder, and provide that after September 30, 1992, no private passenger automobile physical damage insurance coverage may be ceded to the Reinsurance Facility; to amend Section 38-77-30, as amended, relating to automobile insurance and definitions, so as to exclude punitive damages from the definition of "damages"; to amend Section 38-77-140, relating to automobile insurance and bodily injury and property damage limits, so as to refer to "actual damages", and provide that an insurer shall offer the insured a rider or endorsement for an additional premium to cover liability for punitive damages, which coverage is optional with the insured; to amend Section 38-77-150, relating to the uninsured motorist provision and the defense of an action by the insurer, so as to refer to actual damages, increase the exclusion amount regarding loss or damage, require insurers to offer higher limits of uninsured motorist coverage, require insurers to offer on a form prescribed by the Chief Insurance Commissioner "nonstackable" policies of uninsured motorist coverage, provide that premium rates made by insurers for uninsured motorist coverage must be determined and regulated as premium rates for automobile insurance generally are determined and regulated, and provide that benefits paid pursuant to this Section are subject to subrogation and assignment; to amend Section 38-77-160, as amended, relating to underinsured motorist coverage and additional uninsured motorist coverage, so as to delete certain provisions, require the offering of underinsured motorist coverage up to the limits selected for the insured's liability coverage to provide coverage in the event the insured becomes legally entitled to collect damages from the owner or operator of an underinsured motor vehicle, provide that underinsured motorist benefits paid pursuant to this Section are subject to subrogation and assignment, and enact certain provisions for insurers offering uninsured motorist coverage; to amend Section 56-9-350, relating to the requirement that the verification of automobile insurance coverage form be issued following certain accidents, so as to delete certain provisions, and provide that the operator or owner of a motor vehicle involved in an accident resulting in property damage of four hundred dollars or more or in bodily injury or death within fifteen days after the accident shall forward a written report of the accident to the Department of Highways and Public Transportation on a form prescribed by the Department; to amend Section 56-10-10, relating to vehicle financial security and the security required on registered vehicles, so as to delete certain provisions, and provide that security must be maintained on every motor vehicle required to be registered in South Carolina where the owner or other operator not excluded in accordance with Section 38-77-340 and who resides in the same household meets one of the conditions or factors specified in Section 38-73-455 for application of the objective standards rate; to amend Section 56-10-220, relating to the requirement that a vehicle sought to be registered in this State must be insured, so as to describe persons applying for registration as persons required to provide security on a motor vehicle as provided in Section 56-10-10; to amend Section 56-10-240, relating to the requirement that, upon loss of automobile insurance, the insured shall obtain new insurance or surrender the vehicle's registration and plates, so as to describe the motor vehicles referenced in the Section as vehicles for which security is required as provided in Section 56-10-10; to amend the 1976 Code by adding Article 5 to Chapter 10 of Title 56 so as to provide for the registration and licensing of uninsured motor vehicles; to amend Section 38-77-110, as amended, relating to the requirement upon automobile insurers to insure and exceptions, so as to provide that automobile insurers may not refuse to write or renew automobile insurance policies for individual passenger automobiles if the risk qualifies for the safe driver discount in Section 38-73-760 or small commercial risks, provide that no insurer is required to write or renew private

passenger automobile insurance if the risk does not qualify for the safe driver discount in Section 38-73-760, delete certain language, provide that no insurer may refuse to write or renew such policy, coverage or endorsement of automobile insurance because of the race, color, creed, or economic status of anyone who seeks to become insured, provide that an applicant who is denied coverage may request the denying insurer to provide in writing the reason or reasons for which the applicant has been refused insurance, and require the insurer to respond in writing within ten days of the request; to amend the 1976 Code by adding Article 13 to Chapter 77 of Title 38 so as to provide for the abolition of the South Carolina Reinsurance Facility and for the establishment of the South Carolina Joint Underwriting Association; to amend Section 38-73-455, as amended, relating to automobile insurance rates, so as to delete provisions of the Section, and provide, among other things, that an automobile insurer shall offer four, rather than two, different rates for automobile insurance, that insurers must file with the Chief Insurance Commissioner rates for personal protection policies and revised rates for all other private passenger automobile insurance policies written by them, and that insurers may place any automobile insurance risk at any of the four rate levels without restriction unless provided otherwise by law; to amend Section 38-73-760, as amended, relating to uniform statistical plans, by adding language which provides that no surcharge may be assessed for the first conviction of speeding less than twenty miles per hour if the person convicted has no chargeable accidents or driving convictions for the previous three years; to amend Section 38-57-130, relating to insurance, trade practices, and the prohibition on misrepresentations, special inducements, and rebates in all insurance contracts, so as to make an exception for a private passenger automobile insurance contract; to amend Section 56-10-270, relating to the operation of an uninsured motor vehicle and penalties, so as to increase certain of the penalties, authorize performance of public service as a penalty, provide for suspension of the driving privilege and all license plates and registration certificates issued in a person's name for second, third, and subsequent offense violations of the provisions of this Section, delete certain language, and provide that the convicted person's privileges may not be reinstated until proof of financial responsibility has been filed; to amend the 1976 Code by adding Section 38-77-116 so as to provide that, upon issuance of a new private passenger automobile insurance policy, the insurance company or agent must review with the new applicant a list of driving offenses and the related fine and punishment, as well as certain other things; to provide that after September 30, 1992, the governing board of the Joint Underwriting Association shall contract with one or more insurers or business entities to serve as the designated carrier and shall establish a procedure for the selection of the designated carrier, provide that if the designated carrier fails two claims audits, including a re-audit, within the contract term, the designated carrier is disqualified for renewal of its contract upon expiration of its existing contract, and provide that no designated producers may receive a commission higher than five percent on a policy ceded to the Joint Underwriting Association and that agents or producers other than designated producers may not receive a commission higher than five percent on a policy written directly by the Association; to amend the 1976 Code by adding Sections 38-77-175 and 56-7-12 so as to provide that when the operator or owner of a motor vehicle is issued a traffic ticket for a moving violation by a law enforcement officer, he must be furnished a written request form to complete to verify liability insurance coverage, provide for the return of the form and the effect of failure to return the form to the Department of Highways and Public Transportation, and provide for the deposit of any fine collected for a violation of Section 56-10-270 as a result of these two new Sections; to repeal Article 5 of Chapter 77 of Title 38, relating to the South Carolina Reinsurance Facility and designated producers; and to provide for the severability and constitutionality of this Act and for certain obligations and subrogation of personal protection insurers under certain circumstances involving the unconstitutionality or invalidity of Section 38-78-110.

<b>03/04/92</b>	<b>House</b>	<b>Introduced and read first time HJ-49</b>
<b>03/04/92</b>	<b>House</b>	<b>Referred to Committee on Labor, Commerce and Industry HJ-49</b>
<b>04/07/92</b>	<b>House</b>	<b>Committee report: Favorable with amendment Labor, Commerce and Industry HJ-7</b>
<b>04/22/92</b>	<b>House</b>	<b>Debate interrupted HJ-40</b>
<b>04/23/92</b>	<b>House</b>	<b>Objection by Rep. Beatty &amp; M Martin HJ-19</b>
<b>04/23/92</b>	<b>House</b>	<b>Debate adjourned until Tuesday, April 28, 1992 HJ-1</b>
<b>04/28/92</b>	<b>House</b>	<b>Debate adjourned until Wednesday, April 29, 1992</b>
<b>04/29/92</b>	<b>House</b>	<b>Objection by Rep. Farr, McElveen, Jennings, Harrelson, Delleney, HJ-261</b>
<b>04/29/92</b>	<b>House</b>	<b>Objection by Rep. J. Brown &amp; Scott HJ-261</b>
<b>04/30/92</b>	<b>House</b>	<b>Objection withdrawn by Rep. Farr HJ-26</b>