

## Session 108 - (1989-1990)

### H 4535 General Bill, By W.S. McCain

A Bill to amend Title 38, Code of Laws of South Carolina, 1976, relating to insurance, by adding Chapter 78 so as to enact the "South Carolina Consumer Freedom of Choice in Motor Vehicle Insurance Act"; to amend Section 38-77-30, as amended, relating to automobile insurance and definitions, so as to change the definition of "damages"; to amend Section 38-77-140, relating to bodily injury and property damage limits, so as to revise the Code Section by, among other things, adding provisions, including requiring an insurer to offer the insured a rider or endorsement for an additional premium to cover liability for punitive damages; to amend Section 38-77-150, relating to the uninsured motorist provision and the defense of an action by the insurer, so as to revise the Code Section by, among other things, adding provisions, including requiring automobile insurers to offer at the option of the insured, higher limits of uninsured motorist coverage in accordance with Section 38-77-350, and requiring insurers to offer on a form prescribed by the Chief Insurance Commissioner "nonstackable" policies of uninsured motorist coverage containing certain policy provisions; to amend Section 38-77-160, as amended, relating to additional uninsured motorist coverage and to underinsured motorist coverage, so as to revise the Code Section by, among other things, deleting provisions, providing that underinsured motorist benefits, rather than benefits merely, paid pursuant to this Section are subject, rather than "are not subject", to subrogation and assignment, and adding provisions, including providing that an insured entitled to benefits under an uninsured motorist provision is not entitled to benefits under an underinsured motorist provision; and 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 shall instruct the jury to deduct from its verdict the value of all benefits received by the claimant for collateral sources, define "collateral sources", and provide that no claimant may make claim or demand, no court may order payment, and no insurer may pay by way of settlement, covenant not to sue, or trust or loan agreement for an item of damages to the extent that the claimant has already received, or will receive, reimbursement for that item as a result of a collateral source payment.

**01/31/90 House Introduced and read first time HJ-10**

**01/31/90 House Referred to Committee on Labor, Commerce and Industry HJ-11**