

## Session 116 - (2005-2006)

**S\*0083 (Rat #0033, Act #0032 of 2005) General Bill, By McConnell, Moore, Campsen, Ryberg, O'Dell, Elliott, Alexander, Gregory, Leatherman, Richardson and Bryant**

**Summary:** Tort Reform Act of 2005 Relating to Medical Malpractice

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3, CHAPTER 32 TO TITLE 15 SO AS TO ENACT THE "SOUTH CAROLINA NONECONOMIC DAMAGES AWARDS ACT OF 2005", TO DEFINE KEY TERMS, TO ESTABLISH PROCEDURES GOVERNING THE AWARDING OF NONECONOMIC DAMAGES SUCH AS PAIN AND SUFFERING, TO LIMIT THE AMOUNT OF AN AWARD FOR NONECONOMIC DAMAGES TO THREE HUNDRED FIFTY THOUSAND DOLLARS FOR EACH CLAIMANT, AND TO PROVIDE FOR EXCEPTIONS; BY ADDING SECTION 15-35-400, SO AS TO PROVIDE FOR OFFERS OF JUDGMENT AFTER COMMENCEMENT OF A CIVIL ACTION BASED ON CONTRACT OR SEEKING THE RECOVERY OF MONEY DAMAGES AND TO PROVIDE FOR CONSEQUENCES OF NONACCEPTANCE; BY ADDING SECTION 15-36-100, SO AS TO ESTABLISH STANDARDS FOR EXPERT WITNESSES IN PROFESSIONAL MALPRACTICE ACTIONS; BY ADDING CHAPTER 79 TO TITLE 15 SO AS TO DEFINE KEY TERMS, PROVIDE FOR MANDATORY MEDIATION, AND TO PERMIT BINDING ARBITRATION IN MEDICAL MALPRACTICE ACTIONS; BY ADDING SECTION 38-79-40, SO AS TO PROHIBIT A PERSON SERVING ON THE BOARD OF THE JOINT UNDERWRITING ASSOCIATION OR THE BOARD OF GOVERNORS OF THE PATIENTS' COMPENSATION FUND FROM BEING EMPLOYED OR COMPENSATED BY EITHER OF THESE AGENCIES; BY ADDING SECTION 38-79-155 SO AS TO REQUIRE MEDICAL MALPRACTICE INSURANCE CARRIERS TO PROVIDE AND MAINTAIN COVERAGE TO QUALIFIED LICENSED HEALTH CARE PROVIDERS; TO AMEND SECTION 38-79-460, RELATING TO THE PATIENTS' COMPENSATION FUND, SO AS TO PROVIDE THAT THE FUND SHALL BE MANAGED BY THE BOARD OF GOVERNORS RATHER THAN THE STATE TREASURER; TO AMEND SECTION 38-79-470, RELATING TO THE PATIENTS' COMPENSATION FUND, SO AS TO PROVIDE THAT MONEY IS TO BE WITHDRAWN FROM THE FUND UPON SIGNATURE OF THE CHAIRMAN OF THE BOARD OF GOVERNORS; TO AMEND SECTION 40-47-200, RELATING TO SUSPENSION OR REVOCATION OF A LICENSE TO PRACTICE MEDICINE OR OSTEOPATHY, SO AS TO REQUIRE NOTIFICATION TO THE PERSON'S LAST KNOWN EMPLOYER AND TO ANY PLACE WHERE THE PERSON HAS PRIVILEGES TO PRACTICE MEDICINE; TO AMEND SECTION 40-47-211, RELATING TO THE BOARD OF MEDICAL EXAMINERS, SO AS TO INCREASE THE MEMBERSHIP OF THE BOARD FROM THIRTY-SIX TO FORTY-EIGHT MEMBERS AND TO PROVIDE FOR LAY MEMBERS IN ADDITION TO THIRTY-SIX LICENSED PHYSICIANS; TO AMEND SECTION 40-71-10, AS AMENDED, RELATING TO MEMBERS OF PROFESSIONAL COMMITTEES EXEMPT FROM TORT LIABILITY, SO AS TO ADD THAT A MEMBER OF A PROFESSIONAL COMMITTEE IS NOT LIABLE FOR DAMAGES IN AN ACTION FOR RESTRAINT OF TRADE, A VIOLATION OF THE SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT, OR ANOTHER ACTION BASED ON UNFAIR OR ILLEGAL COMPETITION UNLESS THE MEMBER ACTED WITH MALICE; BY ADDING SECTION 40-71-30, SO AS TO ALLOW CONFIDENTIAL DOCUMENTS TO BE FILED UNDER SEAL WITH THE CIRCUIT COURT WITH JURISDICTION OVER THE PENDING ACTION; AND TO AMEND SECTION 15-38-15, RELATING TO CIVIL LIABILITY, SO AS TO PROVIDE THAT INCLUSION OF ANY PERCENTAGE OF THE PLAINTIFF'S FAULT SHALL NOT REDUCE THE AMOUNT OF THE PLAINTIFF'S RECOVERABLE DAMAGES. - ratified title

12/15/04	Senate	Prefiled
12/15/04	Senate	Referred to Committee on Judiciary
01/11/05	Senate	Introduced and read first time SJ-123
01/11/05	Senate	Referred to Committee on Judiciary SJ-123
02/02/05	Senate	Committee report: Majority favorable with amend., minority unfavorable Judiciary SJ-24
02/03/05	Senate	Special order SJ-23
02/03/05		Scrivener's error corrected
02/08/05	Senate	Debate interrupted SJ-30
02/09/05	Senate	Debate interrupted SJ-26
02/10/05	Senate	Debate interrupted SJ-25
02/15/05	Senate	Debate interrupted SJ-16
02/16/05	Senate	Amended SJ-19
02/16/05	Senate	Read second time SJ-19
02/16/05	Senate	Unanimous consent for third reading on next legislative day SJ-19
02/17/05	Senate	Read third time and sent to House SJ-15
02/17/05		Scrivener's error corrected
02/22/05	House	Introduced and read first time HJ-5

02/22/05	House	Referred to Committee on Judiciary HJ-6
03/02/05	House	Committee report: Favorable with amendment Judiciary HJ-3
03/03/05	House	Amended HJ-30
03/03/05	House	Read second time HJ-48
03/03/05	House	Unanimous consent for third reading on next legislative day HJ-48
03/04/05	House	Read third time and returned to Senate with amendments HJ-3
03/17/05	Senate	House amendment amended SJ-68
03/17/05	Senate	Returned to House with amendments SJ-68
03/21/05		Scrivener's error corrected
03/29/05	House	Concurred in Senate amendment and enrolled HJ-25
03/31/05		Ratified R 33
04/04/05		Signed By Governor
04/06/05		Copies available
04/06/05		Effective date See Act for Effective Date
04/13/05		Act No. 32