

## Session 110 - (1993-1994)

### H 3421 General Bill, By Cato

A Bill to amend the Code of Laws of South Carolina, 1976, 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; to amend Section 38-77-280, as amended, relating to automobile insurance and to collision and comprehensive coverage, so as to delete the current provisions and provide that notwithstanding certain Sections, after a certain date automobile insurers may refuse to write or renew private passenger automobile physical damage insurance coverage; to amend Section 38-77-30, as amended, relating to the definition of "damages" under the automobile insurance laws, so as to provide that the term includes actual damages only; to amend Section 38-77-140, relating to automobile insurance and bodily injury and property damage limits, so as to, among other things, provide that an insurer shall also 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 automobile insurance, the uninsured motorist provision, and defense of an action by the insurer, so as to, among other things, provide that insurers shall offer, at the option of the insured, higher limits of uninsured motorist coverage in accordance with Section 38-77-350; to amend Section 38-77-160, as amended, relating to additional uninsured motorist coverage, and underinsured motorist coverage, so as to, among other things, provide that automobile insurers shall offer on a form prescribed by the Chief Insurance Commissioner, at the option of the insured in accordance with Section 38-77-350 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; to amend Section 56-9-350, relating to security following motor vehicle accidents, verification of insurance coverage form to be issued following certain accidents, effect of failure to return the form, and uninvestigated accidents, so as to, among other things, provide that within fifteen days after an accident a written report of the accident must be forwarded to the Department of Highways and Public Transportation on a form prescribed by the Department; to amend Section 56-10-10, relating to motor vehicle registration and financial security and the security required on registered vehicles, so as to delete certain provisions and provide, among other things, that security must be maintained on every motor vehicle required to be registered in South Carolina where the owners or other operators not excluded in accordance with Section 38-77-340 reside in the same household and are insureds under the same policy, if one of the owners or other operators do not qualify for the safe driver discount; to amend Section 56-10-220, relating to the requirement that a motor vehicle sought to be registered must be insured and proof of the same, so as to describe the person applying for registration as one "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 the loss of automobile insurance the insured must obtain new insurance or surrender the registration and license plates, so as to further describe the motor vehicle which is the subject of this Section as one "for which security is required as provided in Section 56-10-10", delete certain language, and describe the resident for whom lapse or termination occurs after three months as one "who does not qualify for the safe driver discount in Section 38-73-760"; to amend Chapter 10, Title 56, relating to motor vehicle registration and financial security, by adding Article 5 so as to provide for the registration and licensing of uninsured motor vehicles; to amend Section 38-77-110, as amended, relating to the provision that automobile insurers are required to insure and exceptions, so as to, among other things, provide that no insurer is required to write or renew private passenger automobile if the risk does not qualify for the safe driver discount, provide that no insurer may refuse to write or renew a policy, coverage, or endorsement of automobile insurance because of the race, color, creed, national origin, ancestry, or income of anyone who seeks to become insured, and provide that an applicant denied coverage must be provided in writing by the denying insurer the reason or reasons for which the applicant has been refused insurance by that insurer, at the time of the denial; to amend the 1976 Code by adding Article 13 to Chapter 77 of Title 38, so as to establish the South Carolina Joint Underwriting Association (JUA), including provisions for, among other things, the abolition of the South Carolina Reinsurance Facility; to amend Section 38-73-455, as amended, relating to automobile insurance rates, so as to, among other things, delete certain provisions, provide that an automobile insurer shall offer four, rather than two, different rates for automobile insurance, and provide that, no later than ninety days after the passage of this Act, insurers of automobile insurance must file with the Chief Insurance Commissioner revised rates for all other private passenger automobile insurance policies written by them; to amend Section 38-73-760, as amended, relating to the State Rating and Statistical Division for insurance purposes and Uniform Statistical Plans, so as to provide that no surcharge may be assessed for the first conviction of speeding less than twenty-five miles per hour if the person convicted has maintained the safe driver discount for the previous three years, and provide that no surcharge may be assessed for convictions of certain violations occurring on or after a certain date; to amend Section 56-10-270, relating to the operation of an uninsured motor vehicle and penalties, so as to, among other things, change the penalties, including providing for the performance of public service hours; 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 the possible increase in the insurance rates, the effect of any surcharges, or the effect of the loss of the safe driver discount, and provide that the list must be on a form approved by the Chief Insurance Commissioner and must accompany the policy; to provide that, after a certain date, 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 commissions paid to agents for policies ceded to or placed in the JUA shall be set by the JUA's board of directors, and provide for related matters; to amend the 1976 Code by adding Section 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 completed and verified form to the Department of Highways and Public Transportation, provide for the deposit of such collected fines, and provide for related matters; to repeal Article 5, Chapter 77, Title 38, relating to the South Carolina Reinsurance Facility and designated producers, Section 38-73-1420, relating to the requirement that the Board of Governors of the Reinsurance Facility shall file an expense component for private passenger automobile insurance rate or premium charges, Section 38-73-1425, relating to the provision that the final rate or premium charge for a private passenger automobile insurance risk ceded to the Reinsurance Facility which does not qualify for the safe driver discount is the final rate or premium charge required by Section 38-73-1420 or the final rate or premium charge approved for use by the insurer, whichever is greater, Section 38-77-285, relating to the requirement that all automobile insurance coverages must be in one policy and exceptions, Section 38-77-920, relating to the provision that automobile insurers and agents may not refuse acceptance of insurance, property rights of certain agents, and restriction of mailings to certain areas, Section 38-77-940, relating to the Automobile Insurance Law, avoiding certain classes or types of risks, exceptions, and canceling an agent's representation, Section 38-77-950, relating to unreasonable or excessive use of the Reinsurance Facility by an insurer and notice to an automobile insurance policyholder that his policy is in the Facility, and Section 38-77-960, relating to automobile insurance agent's business; to amend Section 38-77-111, relating to the coverages of an automobile insurance policy which may be ceded to the Reinsurance Facility and those coverages which cannot be ceded, so as to delete the reference to the Facility, replace it with the "Joint Underwriting Association", and allow a cession exception, with respect to coverages under a policy that an automobile insurer is not mandated by law to write, for tort liability coverage and uninsured motorist coverage for those risks that do not qualify for the safe driver discount; and to provide a severability clause.

02/04/93	House	Introduced and read first time HJ-32
02/04/93	House	Referred to Committee on Judiciary HJ-37
02/10/93	House	Recalled from Committee on Judiciary HJ-21
02/10/93	House	Committed to Committee on Labor, Commerce and Industry HJ-21
04/22/93	House	Committee report: Favorable with amendment Labor, Commerce and Industry HJ-5
05/06/93	House	Debate adjourned until Tuesday, May 11, 1993 HJ-40
05/11/93	House	Debate adjourned until Wednesday, May 12, 1993 HJ-15
05/12/93	House	Objection by Rep. Cobb-Hunter, White, Breeland, Scott, HJ-14
05/12/93	House	Objection by Rep. Inabinett & Anderson HJ-14
06/03/93	House	Objection withdrawn by Rep. Inabinett HJ-91
03/01/94	House	Objection withdrawn by Rep. Scott HJ-49
03/01/94	House	Objection by Rep. Cato HJ-49
03/01/94	House	Objection withdrawn by Rep. Breeland HJ-55
03/01/94	House	Objection by Rep. Simrill, Corning, Robinson & Kelley HJ-55
05/18/94	House	Objection withdrawn by Rep. Corning HJ-33