

## Session 118 - (2009-2010)

**H 3489 General Bill, By Harrell, Cato, Sandifer, Cooper, Duncan, Owens, White, Bingham, A.D. Young, Huggins, E.H. Pitts, Edge, Toole, Kirsh, J.R. Smith, G.R. Smith, Brady, Crawford, Barfield, Bedingfield, Erickson, Loftis, Pinson, Rice, Hiott, Littlejohn, Allison, Chalk, Daning, Bowen, Gambrell, Hamilton, Wylie, Sottile, Nanney, Parker, Forrester, Haley, Millwood, Battle, Frye, Simrill, Spires, Thompson, Whitmire, Horne, Clemons, Skelton and Scott**

**Summary:** Damage Awards Fairness Act

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE "SOUTH CAROLINA FAIRNESS IN CIVIL JUSTICE ACT OF 2009" BY AMENDING ARTICLE 1, CHAPTER 32, TITLE 15, PREVIOUSLY RESERVED, SO AS TO PROVIDE DEFINITIONS FOR PURPOSES OF THE CHAPTER; TO AMEND SECTION 15-32-220, AS AMENDED, RELATING TO LIMITS ON NONECONOMIC DAMAGES, AND ARTICLE 5, CHAPTER 32, TITLE 15, RELATING TO PUNITIVE DAMAGES, BOTH SO AS TO PROVIDE LIMITS ON THE AWARD OF NONECONOMIC AND PUNITIVE DAMAGES IN ALL PERSONAL INJURY ACTIONS AND TO PROVIDE FOR CERTAIN PROCEDURES AND REQUIREMENTS RELATING TO THE AWARD OF THESE DAMAGES; BY ADDING SECTION 1-7-750 SO AS TO ENACT THE "PRIVATE ATTORNEY RETENTION SUNSHINE ACT" TO GOVERN THE RETENTION OF PRIVATE ATTORNEYS BY THE ATTORNEY GENERAL OR A SOLICITOR AND TO PROVIDE TERMS AND CONDITIONS GOVERNING THE RETAINER AGREEMENT INCLUDING LIMITS ON THE COMPENSATION OF OUTSIDE COUNSEL IN CONTINGENCY FEE CASES; TO AMEND SECTION 15-3-670, RELATING TO LIMITATIONS ON ACTIONS BASED ON UNSAFE OR DEFECTIVE IMPROVEMENTS TO REAL PROPERTY, SO AS TO PROVIDE THAT THE VIOLATION OF A BUILDING CODE DOES NOT CONSTITUTE PER SE FRAUD, GROSS NEGLIGENCE, OR RECKLESSNESS; BY ADDING SECTION 15-3-160 SO AS TO PROVIDE A REBUTTABLE PRESUMPTION THAT A MANUFACTURER OR SELLER IS NOT LIABLE FOR A PRODUCT IF IT IS MANUFACTURED OR SOLD IN A MANNER APPROVED BY A GOVERNMENT AGENCY; BY ADDING SECTION 15-5-10 SO AS TO PROVIDE REQUIREMENTS AND PROCEDURES TO BRING, MAINTAIN, AND CERTIFY CLASS ACTIONS; TO AMEND SECTION 15-73-10, RELATING TO LIABILITY OF THE SELLER FOR A DEFECTIVE PRODUCT, SO AS TO PROVIDE THAT THE SELLER IS NOT LIABLE FOR DAMAGE CAUSED ONLY TO THE PRODUCT ITSELF; TO AMEND SECTION 18-9-130, AS AMENDED, RELATING TO THE EFFECT OF A NOTICE OF APPEAL ON THE EXECUTION OF JUDGMENT, SO AS TO PROVIDE LIMITS FOR APPEAL BONDS; TO AMEND SECTIONS 33-6-220 AND 33-44-303, RELATING TO CORPORATIONS AND LIMITED LIABILITY COMPANIES, SO AS TO PROVIDE THAT A JUDGMENT AGAINST A CORPORATION OR LIMITED LIABILITY COMPANY IS A PREREQUISITE TO AN ALTER EGO CLAIM TO PIERCE THE CORPORATE VEIL; TO AMEND SECTION 39-5-20, RELATING TO UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES, SO AS TO PROVIDE ACTIONS OR TRANSACTIONS OTHERWISE PERMITTED OR REGULATED BY THE FEDERAL TRADE COMMISSION OR ANOTHER REGULATORY BODY OR OFFICE ACTING UNDER STATUTORY AUTHORITY OF THIS STATE OR THE UNITED STATES ARE NOT COVERED BY THE ACT; TO AMEND SECTION 39-5-140, RELATING TO AN ACTION FOR DAMAGES ARISING OUT OF AN UNFAIR OR DECEPTIVE TRADE PRACTICE, SO AS TO PROVIDE THAT A PERSON SEEKING DAMAGES SHALL PAY "OUT-OF-POCKET EXPENSES" AND TO DEFINE THIS TERM; TO AMEND SECTION 56-5-6540, AS AMENDED, RELATING TO THE PENALTIES FOR THE MANDATORY USE OF SEATBELTS, SO AS TO PROVIDE THAT A VIOLATION MAY BE CONSIDERED IN A CIVIL ACTION AS EVIDENCE OF COMPARATIVE NEGLIGENCE OR AS EVIDENCE OF FAILURE TO MITIGATE DAMAGES; AND TO REPEAL SECTIONS 15-32-200, 15-32-210, AND 15-32-240 ALL RELATING TO NONECONOMIC DAMAGES AND PROCEDURES REGARDING THE LIMITATION AND COLLECTION OF NONECONOMIC DAMAGES.

02/10/09	House	Introduced and read first time HJ-12
02/10/09	House	Referred to Committee on Judiciary HJ-13
02/23/10	House	Member(s) request name added as sponsor: Horne, Clemons
02/24/10	House	Committee report: Favorable with amendment Judiciary HJ-4
03/02/10		Scrivener's error corrected
03/02/10	House	Member(s) request name added as sponsor: Skelton, Scott
03/02/10	House	Requests for debate-Rep(s). Sellers, Weeks, Crawford, Hosey, Skelton, Hart, Umphlett, MA Pitts, Gambrell, Long, Harrison, King, Harrell, Stringer, Wylie, Bedingfield, GR Smith, Sandifer, Cato, and Kelly HJ-66
03/03/10	House	Amended HJ-55
03/03/10	House	Read second time HJ-55
03/03/10	House	Roll call Yeas-104 Nays-9 HJ-77
03/04/10	House	Debate adjourned until Tuesday, March 9, 2010 HJ-22

03/09/10 House Read third time and sent to Senate HJ-33  
03/09/10 House Roll call Yeas-89 Nays-10 HJ-35  
03/10/10 Senate Introduced and read first time  
03/10/10 Senate Referred to Committee on Judiciary  
05/19/10 Senate Committee report: Favorable with amendment Judiciary SJ-26  
05/19/10 Senate Special order, set for May 19, 2010 SJ-60  
05/20/10 Senate Scrivener's error corrected  
06/02/10 Senate Read second time