

## Session 120 - (2013-2014)

### S 0773 General Bill, By Massey

#### Summary: Transparency in Private Attorney Contracts Act

A BILL TO AMEND CHAPTER 7, TITLE 1 OF THE 1976 CODE, RELATING TO THE ATTORNEY GENERAL AND SOLICITORS, TO ENACT ARTICLE 2, THE "TRANSPARENCY IN PRIVATE ATTORNEY CONTRACTS ACT", TO PROVIDE DEFINITIONS, TO PROVIDE THAT THE STATE MAY NOT ENTER INTO CONTINGENCY FEE CONTRACTS WITHOUT A WRITTEN DETERMINATION BY THE ATTORNEY GENERAL, TO SET THE MAXIMUM FOR CONTINGENCY FEE CONTRACTS, TO PROVIDE FOR CERTAIN REQUIREMENTS THAT MUST BE MET DURING THE TERM OF THE CONTRACT, AND TO PROVIDE THAT BY FEBRUARY FIRST OF EACH YEAR, THE ATTORNEY GENERAL SHALL SUBMIT A REPORT TO THE PRESIDENT PRO TEMPORE OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE GOVERNOR DESCRIBING THE USE OF CONTINGENCY FEE CONTRACTS WITH PRIVATE ATTORNEYS IN THE PRECEDING CALENDAR YEAR AND TO PROVIDE FOR THE CONTENTS OF THE REPORT; TO AMEND SECTION 15-36-100, RELATING TO ACTIONS FOR PROFESSIONAL NEGLIGENCE, TO PROVIDE THAT A DEFENDANT WHO FILES A COUNTERCLAIM ASSERTING A CLAIM FOR PROFESSIONAL NEGLIGENCE SHALL FILE THE REQUIRED AFFIDAVIT; TO AMEND CHAPTER 79, TITLE 15, RELATING TO MEDICAL MALPRACTICE ACTIONS, BY ADDING SECTION 15-79-135 TO PROVIDE THAT EVIDENCE OFFERED TO PROVE PAST MEDICAL EXPENSES SHALL BE LIMITED TO EVIDENCE OF THE AMOUNTS ACTUALLY PAID TO SATISFY THE BILLS THAT HAVE BEEN SATISFIED AND EVIDENCE OF THE AMOUNTS ACTUALLY NECESSARY TO SATISFY THE BILLS THAT HAVE BEEN INCURRED BUT NOT YET SATISFIED; TO AMEND CHAPTER 135, TITLE 44, RELATING TO THE ASBESTOS AND SILICA CLAIMS PROCEDURE ACT OF 2006, BY ADDING SECTION 44-135-65 TO DEFINE "ASBESTOS TRUST CLAIM", TO PROVIDE THAT A CLAIMANT SHALL PROVIDE TO ALL OF THE PARTIES IN AN ASBESTOS TORT ACTION A SWORN STATEMENT BY THE CLAIMANT, UNDER PENALTY OF PERJURY, IDENTIFYING ALL EXISTING ASBESTOS TRUST CLAIMS MADE BY OR ON BEHALF OF THE CLAIMANT AND ALL TRUST CLAIMS MATERIAL PERTAINING TO EACH IDENTIFIED ASBESTOS TRUST CLAIM, AND TO PROVIDE THE MANNER IN WHICH A DEFENDANT MAY MAKE A MOTION TO STAY THE PROCEEDINGS OF AN ASBESTOS TORT ACTION AND OTHER PROCEDURES RELATED TO A DEFENDANT'S MOTION TO STAY THE PROCEEDINGS; TO AMEND CHAPTER 1, TITLE 56, RELATING TO DRIVER'S LICENSES, BY ADDING SECTION 56-1-2165 TO PROVIDE THAT NO PERSON OR ENTITY WHO EMPLOYS OR CONTRACTS WITH A PERSON WHO HOLDS A VALID COMMERCIAL DRIVER'S LICENSE SHALL BE HELD LIABLE IN ANY CIVIL ACTION ARISING OUT HIS OPERATION OF ANY MOTOR VEHICLE ON ANY THEORY OF NEGLIGENT HIRING, NEGLIGENT RETENTION, OR NEGLIGENT ENTRUSTMENT, PROVIDED THE PERSON MEETS ALL OF THE REQUIREMENTS OF CFR PARTS 383 AND 391 AT THE TIME OF THE ACCIDENT AND AT THE TIME OF HIRING, WITH CERTAIN EXCEPTIONS AND NO PERSON OR ENTITY WHO EMPLOYS OR CONTRACTS WITH A PERSON WHO DRIVES A MOTOR VEHICLE SHALL BE HELD LIABLE IN ANY CIVIL ACTION ARISING OUT HIS OPERATION OF ANY MOTOR VEHICLE ON ANY THEORY OF NEGLIGENT TRAINING OR SUPERVISION WITH CERTAIN EXCEPTIONS; TO AMEND CHAPTER 5, TITLE 56, RELATING TO THE UNIFORM ACT REGULATING TRAFFIC ON HIGHWAYS, BY ADDING SECTION 56-5-6255 TO PROVIDE THAT A VIOLATION OF A REGULATION ENACTED UNDER THE MOTOR VEHICLE TRAFFIC AND SAFETY STATUTES AND REGULATIONS OF THIS STATE, OR THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS, OR A CONVICTION OF A MOVING VIOLATION DOES NOT CONSTITUTE GROSS NEGLIGENCE, RECKLESSNESS, OR WILLFUL CONDUCT PER SE, BUT MAY BE USED AS EVIDENCE OF SUCH CONDUCT; AND TO AMEND SECTION 56-5-6540, RELATING TO ADMISSIBILITY AS EVIDENCE OF NEGLIGENCE IN A CIVIL ACTION, TO REMOVE THE PROVISION THAT A VIOLATION OF THIS ARTICLE IS NOT NEGLIGENCE PER SE OR CONTRIBUTORY NEGLIGENCE, AND IT IS NOT ADMISSIBLE AS EVIDENCE IN A CIVIL ACTION.

06/04/13 Senate Introduced and read first time (Senate Journal-page 13)

06/04/13 Senate Referred to Committee on Judiciary (Senate Journal-page 13)

10/08/13 Senate Referred to Subcommittee: Massey (ch), Coleman, Gregory