

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
INTERIM BRIEF**



P.O. BOX 784 • Tallahassee, FL 32302-0784 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • [fbnnet.com](http://fbnnet.com)

**DAILY INTERIM LEGISLATIVE BRIEF FOR FEBRUARY 17, 2003**  
**SOURCE: ASSOCIATED INDUSTRIES OF FLORIDA**

### **PIP REFORM**

The Senate Select Committee on Automobile Insurance/PIP Reform met today to hear testimony on Florida's no-fault system, particularly with respect to an alternative design for auto insurance, the so-called Choice Auto Plan.

Choice was developed by two law professors, Jeffrey O'Connell and Robert Joost, to offer auto-insurance consumers an option between a no-fault plan or the traditional tort system. The customer with a personal-injury protection (PIP) policy who was injured in an automobile would be eligible for a set schedule of benefits and would not be able to pursue economic or non-economic damages. If the insured selected the tort plan under the Choice scheme, however, he would purchase liability coverage and uninsured motorist coverage, which would be used if one party in the accident had no-fault coverage and the other had tort coverage.

The staff's presentation on the various permutations of Choice seemed to confuse senators on the committee. The Choice answer to the weaknesses of no-fault is to expand it, leaving senators skeptical as to whether it would engender cost savings or solve the problems that already exist.

**AIF favors reform of Florida's automobile-insurance law to return stability to the no-fault insurance market by reducing unnecessary litigation over medical and lost-wage benefits.**

### **NURSING-HOME LITIGATION**

The Joint Select Committee on Nursing Homes afternoon hearing was held in a committee room packed with AARP members and health-care workers as lawmakers gathered to hear testimony on whether or not to expand tort reform protections to nursing homes.

The committee took testimony from all sides on a proposal by the nursing-home industry to cap liability through an arbitration process similar to the one that applies to claims of medical malpractice. Speaking in favor of the status-quo was AARP and the Academy of Florida Trial Lawyers. Bob Jackson, representing AARP, said it was too soon to decide whether to cap damages. Several committee members raised the concern that implementation of a cap on awards could lead to increased frequency of claims.

**AIF supports a cap on non-economic damages in nursing-home lawsuits as a continuation of the reforms enacted two years, which have not gone far enough in reducing the cost of liability insurance for long-term care facilities.**

## NO SMOKING IN THE WORKPLACE

The Senate Select Committee on Constitutional Amendment Implementation met to consider proposed committee recommendations for implementation of Amendment 6, which voters approved last November to ban workplace smoking.

The Amendment No. 6 recommendations focused on defining the following four main issues:

- stand-alone bars
- enforcement
- the enclosed indoor workplace
- the definition of work

The staff recommended that stand-alone bars, in which smoking will be allowed, should be identified based on a percentage of food sales. Enforcement would be triggered by the report of a complaint. Indoor workplaces would have to identify what qualified as a work space, where smoking would be prohibited, and what constituted non-workplace spaces, where it would be allowed. According to the staff, every effort should be made to protect non-smokers in work spaces from exposure to second-hand smoke arising from any other designated area. The committee also recommended that the Legislature clarify that, for the purposes of the amendment, work does not include non-commercial activities conducted exclusively by the members of community-service or social organizations, such as religious, veterans, fraternal, charitable, and other non-profit groups.

**AIF will monitor the legislation written to implement Amendment 6 to ensure that it does not place undue burdens on employers and their ability to conduct business.**

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