

A S S O C I A T E D I N D U S T R I E S O F F L O R I D A

LEGISLATIVE DAILYBRIEF



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PREMISES LIABILITY

The House Judiciary Committee debated HB 573 relating to Negligence and Premises Liability, sponsored by House Judiciary Chair Jeff Kottkamp (R-Cape Coral). The bill is specifically limited to retail businesses with 150 or more parking spaces. The bill is designed to give employers some guidance in defending negligence suits arising from criminal acts that occur on their premises. Currently, business owners are sued civilly as joint defendants with the criminal perpetrator. However, due to joint and several liability, the business owner is frequently totally responsible for the judgment since the criminal often does not pay any portion of the judgments.

This bill will allow both parties to present evidence at Summary Judgment or at trial demonstrating that certain safety measures were or were not taken by the business owner and these affirmative defenses can help narrow the scope of potential premises liability lawsuits. The use of such information is currently not possible at the Summary Judgment level.

This recently filed bill was passed by the House Judiciary Committee and is not referenced to any other House committees. The Senate has a companion bill (SB 1654) that has not yet been heard in committee.

AIF supports legislation that protects property owners from unintentional criminal acts committed on their property when appropriate safety measures are in place.

HEALTH CARE

Two bills (HB 1629 and SB 2910), implementing the Governor's Task Force recommendations to improve Floridian's access to affordable health insurance, passed today.

SB 2910 by Senator Durell Peaden (R-Crestview) was passed by the Senate Banking and Insurance Committee. The Committee unanimously adopted a series of amendments that addressed concerns raised by insurers. The Committee rejected an amendment by Senator Steven Geller (D-Hallandale Beach) to strip the Health Flex statewide expansion from the bill. SB 2910 will be heard next by the Senate Appropriations Subcommittee on Health and Human Services.

HB 1629 by Representative Frank Farkas (R-St. Petersburg) was passed by the House Insurance Committee. A "strike everything" amendment, which was passed by the committee, created major changes from the original bill. As the bill now reads, the high risk pool will not commence until July 2005 and the cost of conducting an actuarial analysis of the pool will be \$250,000 in 2004. The "strike everything" also creates a new regulatory system for insurance companies that provide health product discount cards and would create a new category of insurance agent called an "insurance advisor."

This new requirement generated extensive debate from the committee members who expressed concerns about the additional cost to the State for more regulators and the need for additional regulation. After much debate, the sponsor agreed that he would revise provisions regulating the new "insurance advisor" category and discount card providers. The bill will be heard next by the House Finance and Tax Committee.

Both bills outline the following recommendations:

- expanding the Health Flex Program statewide as a means of offering basic, lower-cost health care coverage to uninsured workers who have low incomes;
- establishing purchasing pools for small employers;
- creation of an actuarial review as to the establishment of a health plan for uninsurable and HIPAA-eligible individuals (the actuarial review will provide the 2005 Legislature with amounts needed from the State's General Revenue Fund to implement and subsidize the plan);
- encouraging the use of evidence-based medicine;
- encouraging the development of an electronic medical record that could be used statewide to facilitate timely access to a patient's medical records in the case of emergencies and the reduction of medical errors and;
- facilitating the offering of Health Savings Accounts by insurers which under recent Federal Legislation allows individuals to save pre-tax monies to meet medical needs.

AIF supports legislation that allows employers to provide or expand access to high-quality, affordable health benefits for their employees without additional governmental intrusion or expensive mandates. Programs such as Health Flex provide a way to address the health care needs of Florida's working poor.

ETHICS AND ELECTIONS

The House Procedures Committee unanimously passed HJR 659 relating to Elected Constitutional Officer Terms by Representative Baxter Troutman (R-Winter Haven). This bill proposes to amend Article VI, Section 4, of the Florida Constitution increasing the current term limits, from eight years to twelve years for Florida Senators and Representatives and members of the Cabinet: Attorney General, Chief Financial Officer, and Commissioner of Agriculture. It would not affect the eight year term limit on the office of the Governor nor the Lieutenant Governor.

HJR 659 would delete the term limit language previously placed in Florida's Constitution. As a result of a 1995 US Supreme Court decision, state laws mandating term limits for Federal legislators was deemed unconstitutional. HJR 659 would bring Florida's Constitution into compliance with this decision. The bill will now be debated on the House Floor.

AIF supports the repeal of legislative and Cabinet term limits.

WORKERS' COMPENSATION

The Senate Banking and Insurance Committee passed SB 2270 relating to the Workers' Compensation Joint Underwriting Association (JUA).

The bill appropriates \$15 million to the JUA for deficits in Subplan D. However, Senator JD Alexander (R-Winter Haven) filed a "strike everything" amendment prior to the committee meeting that substantively changed many of the good features of Subplan D. Those Subplan D features were developed by the Coalition of Business and Insurance Industry, and would have alleviated the current deficits and prevent those deficits from recurring in the future.

Senator Alexander's amendment also creates a legislative commission appointed to study and evaluate the nature of the workers' compensation market monthly, and would create a workers' compensation state fund only if the market does not meet a level of stability acceptable to the commission by March 2005. This is clearly a provision that jeopardizes the future of the workers' compensation market in Florida. AIF is greatly concerned that the creation of a state fund could lead to the potential collapse of the private workers' compensation market because of increased employer taxes and assessments, increased bureaucracy, and a restriction on the choices of coverage being offered. The amendment passed and the bill was voted out of the committee unanimously. Senator Alexander has always worked closely with AIF and the Coalition on this issue and we acknowledge that the "strike everything" amendment was filed at the behest of Senate leadership.

AIF will continue to work on this legislation in both the Senate and the House to oppose the creation of a state fund and instead create a workable solution for the JUA deficit that does not place a greater burden on the business community of Florida.

OTHER BILLS OF INTEREST:

The Senate Banking and Insurance Committee passed SB 2224 by Senator Alex Villalobos (R-Miami). This bill expands jurisdiction of the Attorney General to investigate and prosecute financial entities for securities transactions fraud.

Several senators raised concerns that the proposed "new" powers of the Attorney General are duplicative of current powers and responsibilities of the Office of Financial Regulations. Also, concerns were raised that the new powers could be abused by the Attorney General for political purposes. It appears that the bill passed out of committee only as a courtesy to the sponsor. Because of objections raised by Senator Tom Lee (R-Brandon), the current Senate Rules Chairman and next Senate President, it is doubtful that the bill will go much further. SB 2224 is scheduled to be heard next by the Senate Appropriations Subcommittee on Criminal Justice.

Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

- For more information on all of the important legislative information concerning the business community, go to our "members only" Florida Business Network web site at <http://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.