

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



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

**MAY 5, 2005**

## **LEGAL REFORM**

Thanks to the leadership of Senate President Tom Lee (R-Brandon) and Senator Dan Webster (R-Winter Garden), Chairman of the Senate Judiciary Committee, three of the bills that make up the legal reform package were considered today by the Senate. Unfortunately, opponents of the business community were successful in defeating some very good amendments that would strengthen these bills.

The first legal reform bill to be considered was SB 2566 Relating to Negligence by Senator Dan Webster. This bill deals with slip and fall cases as well as premises liability. The original language in the bill would provide protection to retailers in cases where a foreign substance caused a person to become injured as long as the retailer did not have prior knowledge of the existence of the substance. The original bill also provides some guidelines to retailers for establishing a “safe harbor.” The intent of this provision is to provide some protection from lawsuits to those retailers who meet the complex guidelines set out by the bill. This “safe harbor” protection would only apply to those retailers with a minimum of 150 parking spots. The above language was a result of compromise during the committee process.

During the amendatory process Senator Webster offered an amendment that would delete the “safe harbor” language and insert language allowing the intentional tortfeasor (the person who committed a crime) to be placed on the jury verdict form in order for a jury to be given the chance to fairly apportion fault. This would prevent businesses from having to pay an unfair amount of the damages just because a crime occurred on their property. The amendment would do nothing to prevent juries from finding businesses at fault if they indeed were negligent and it would protect small businesses who can not afford to meet the complex and expensive “safe harbor” guidelines. This amendment was supported by the business community, but it was debated against by several members of the Senate. The amendment ultimately failed by a 16-24 margin. Those voting against the good amendment and against the business community were Senators: Nancy Argenziano (R-Crystal River), Dave Aronberg (D-Greenacres), Larcenia Bullard (D-Miami), Skip Campbell (D-Tamarac), Lee Constantine (R-Altamonte Springs), Victor Crist (R-Tampa), Mandy Dawson (R-Ft. Lauderdale), Alex Diaz de la Portilla (R-Miami), Rudy Garcia (R-Hialeah), Steve Geller (D-Hallandale Beach), Tony Hill (D-Jacksonville), Dennis Jones (R-Seminole), Jim King (R-Jacksonville), Ron Klein (D-Delray Beach), Al Lawson (D-Tallahassee), Gwen Margolis (D-Miami Beach), Les Miller (D-Tampa), Durell Peaden (R-Crestview), Bill Posey (R-Rockledge), Nan Rich (D-Sunrise), Burt Saunders (R-Naples), Gary Siplin (D-Orlando), Rod Smith (D-Gainesville), and Frederica Wilson (D-Miami).

Senator Webster then offered another business friendly amendment that would limit the language from the defeated amendment to only include indoor areas. Once again opponents of the business community prevailed and the amendment was defeated by a 17-23 vote. Finally, Senator Webster was able to adopt an amendment which removed the “safe harbor” provision of the bill and only kept the “slip and fall” section of the bill.

A motion was made to substitute SB 2566 with its House companion HB 1931 by Representative David Simmons (R-Altamonte Springs). HB 1931 was then amended to reflect the Senate language and will be heard tomorrow on third reading for final consideration by the Senate.

The Senate then took up SB 2568 Relating to Liability for Products by Senator Webster. This bill provides product sellers with some protection from liability as long as they are not aware that any of the products they are selling are dangerous or malfunctioning. The bill still allows injured parties to sue product sellers if the manufacturer of the product cannot be found or if the manufacturer is from another country.

Senator Webster offered an amendment which would exempt protection from liability if the seller altered, modified, installed, or failed to maintain the product in a manner that caused harm to the claimant. An amendment by Senator Bennett was adopted that provided the same protection offered to product sellers to product installers such as contractors or builders.

Despite these amendments, SB 2568 is still not strong enough to have a significant impact on litigation reform for the business community.

SB 2568 was rolled over to third reading, meaning that the Senate must still take a final vote on the bill.

Finally, the Senate considered SB 2564 Relating to Class Actions also by Senator Webster. This bill would limit class actions to only include Florida residents and non-residents whose cause of action occurred in Florida. One amendment was adopted that would exempt Federal and civil rights cases from the requirements of this bill.

SB 2564 was rolled over to third reading, meaning that the Senate must still take a final vote on the bill.

**It is expected that these bills will be the subject of ongoing negotiations between Senate and House leadership. A final vote on these important legal reform bills could very well be the last issue taken up tomorrow-the final day of the 2005 Legislative Session.**

On the House side, HB 1019 Relating to the Asbestos and Silica Compensation Act was taken up by the House after being passed yesterday by the Senate. The House concurred with the Senate and the bill was passed 103-13.

**AIF salutes Speaker Allan Bense (R-Panama City) and Representative Joe Pickens (R-Palatka) for their leadership on this issue.**

## **SUBSTITUTE COMMUNICATIONS TAX**

Today, the Senate took up SB 2070 Relating to Communications Services by Senator Lee Constantine (R-Altamonte Springs). In its current shape, the bill provides definitions of what constitutes a substitute communications system and it establishes a taskforce for the purposes of studying all aspects of this technology and its potential impact on tax revenue for Florida.

AIF is continuing its efforts for the total repeal of this onerous tax. The bill was rolled over to third reading and negotiations are still ongoing to determine whether the tax will be repealed outright or if the Senate will establish some type of moratorium-the length of which is still undetermined.

**AIF supports total repeal of the substitute communications system tax because as the law is now written, any business with a computer network or an in-house telephone system may become subject to the communications services tax.**

## **GROWTH MANAGEMENT**

The House received SB 360 Relating to Growth Management by Senator Mike Bennett (R-Bradenton) from the Senate. The bill was thoroughly debated and several amendments were adopted by Representative Randy Johnson (R-Winter Garden) that conformed the Senate language to that of the House. The bill was passed by the House 98-20 and a motion was made to accept the Senate's offer of taking this issue to conference.

The conference committee met late tonight and the conferees will meet again early tomorrow morning. It is still unclear what the fate of this issue will be since both sides are still unsure of which bill – the House or the Senate's will serve as the base language for the conference report.

**AIF supports any piece of legislation which encourages smart, sustainable growth. Florida's cities and counties must provide the roads, bridges, and water necessary for businesses to grow and flourish, while at the same time preserving the natural beauty that makes Florida such a unique state.**

## ENVIRONMENT

The Senate unanimously passed HB 937 Relating to Contamination Notification by Representative Bill Galvano (R-Bradenton). This bill provides for contamination notification requirements when contamination has migrated beyond the property boundary of the originally contaminated site, and provides specific criteria associated with each notice provided by the Department of Environmental Protection (DEP) and the site rehabilitator.

HB 937 will now be sent to the Governor for consideration.

**AIF supports this bill and would like to thank Representative Galvano for his commitment to work with the business community. With this proposed legislation in place, surrounding property owners and businesses will benefit by having more timely and comprehensive information on the progress of the cleanup of nearby properties. In addition, it will aid them in making better informed decisions regarding their potential risks of exposure and appropriate ways to reduce or eliminate risk.**

Please send your comments or suggestions to us at [aif@aif.com](mailto: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.