

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



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This week will be a short one for the Legislature. The Senate will not be meeting at all this week in observance of the Passover and Easter Holidays. The House will only be conducting business today, tomorrow, and possibly on Wednesday. Make sure to read this week's Weekly Report as we will be providing you with a re-cap and status of the major business bills being considered as approach the second half of the 2006 session.

#### **LEGAL REFORM**

The House Justice Council unanimously passed HB 7259 Relating to Class Actions by the House Judiciary Committee. This bill would make policy changes relating to capacity to sue and proof of damage for class action lawsuits. More specifically it would:

- **Capacity to sue.** The bill would limit membership in any class action filed in Florida state courts to Florida residents, except in certain circumstances. The bill specifically provides that the claimant class may include nonresidents if the conduct which caused the claim occurred in or emanated from this state.
- **Damages.** The bill would require class action claimants to prove actual damages in order to maintain a class action lawsuit to recover statutory penalties under chapters 320 (motor vehicle license), 501 (consumer protection), 520 (retail installment sales), and 521 (motor vehicle lease disclosure). The bill also provides that nothing in the bill precludes the attorney general from bringing a class action lawsuit to recover statutory penalties, if otherwise authorized by law.

Representatives from AIF and AutoNation waived their time in support of the bill. This bill will bring the business community one step closer to class action reform. Requiring claimants to prove actual damages in a class action suit and limiting claimants to Florida residents will go a long way in improving the business climate in Florida, therefore, attracting more investment and businesses to our state. The trial bar has agreed to support all provisions in the bill and therefore did not speak in opposition to the bill.

HB 7259 will now be placed on the House calendar for consideration on the floor.

**AIF supports HB 7259. Class Action reform is part of the overall debate on legal reform. As such, AIF supports changes to the current tort system that will bring about reasonableness, fairness, and predictability.**

The House Health & Families Council passed HB 1561, An Act Relating to Expert Witnesses by Representative Fred Brummer (R-Apopka) by a narrow margin of 5-4. HB 1561 requires an expert witness in a medical malpractice case to either be licensed in Florida or in the case of out of state expert witnesses, to obtain an expert witness certificate from the Florida Board of Medicine before testifying as an expert witness in a case. HB 1561 provides that experts may be subject to discipline by the Board of Medicine for providing false, fraudulent or misleading testimony.

Chair Holly Benson (R-Pensacola) offered three amendments. The first amendment was based on a recommendation by a Department of Health Report. The amendment requires each named prospective defendant to have an expert witness in the same area of medical specialty as the defendant.

The Florida Academy of Trial Lawyers spoke against this amendment, contending that it would eliminate claims for vicarious liability. Representative Benson observed that the Academy raised a legitimate point. However she believes that the amendment is needed. The amendment was adopted by the Committee.

Chair Benson offered as second amendment also based upon a recommendation made by the Department of Health. This amendment provides that the prevailing standard of care shall be recognized as acceptable and appropriate by reasonably prudent health care providers trained, licensed and practicing in the same area of medical specialty. The Academy also expressed opposition to this amendment on the grounds that it conflicts with language currently provided in section 766.102 Florida Statutes. Chair Benson observed that there may be conflict and she would be happy to work with the Academy but she still believes that the amendment is needed. The amendment was adopted without debate.

Chair Benson offered a third amendment which provides a severability clause. This amendment was adopted without debate.

Representative Bill Galvano (R-Bradenton) withdrew a fourth amendment which would have allowed for an action under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA) in cases where a party tries to get an expert witness not to testify or to change the substance of his or her testimony. Representative Galvano withdrew the amendment because he did not have the opportunity to speak to the bill sponsor before filing the amendment.

The bill was supported by the Florida Society of Plastic Surgeons, Florida Society of Thoracic and Cardiovascular Surgeons, Florida Osteopathic Medical Association, the Florida Radiological Association and the Florida Medical Association. The Florida Medical Association observed that the bill applies to both defendants and plaintiffs equally and provides due process safeguards and standards for Board of Medicine Review.

The Academy of Florida Trial Lawyers and the Trial Lawyers Section of the Florida Bar opposed the bill arguing that it would shut the court house doors for injured victims. The Academy also argued that the bill would make it more difficult for plaintiffs to secure expert witnesses.

Representative Gayle Harrell (R-Port St. Lucie), Representative Ed Homan (R-Temple Terrace) and Representative Eleanor Sobel (D-Hollywood) each spoke in favor of the bill.

House Bill 1561 received a favorable vote, with Representatives Mary Brandenburg (D-Palm Beach), Representative Rene Garcia (R-Hialeah), Representative Shelley Vana (D-West Palm Beach) and Representative Galvano voting against the bill.

HB 1561 will now be heard by the Health and Families Council.

**AIF supports HB 1561. Expert Medical Witnesses are part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability to Florida's legal system.**

## INFORMATION TECHNOLOGY

The House Education Council unanimously passed HB 765 Relating to Students Computers and Internet Access by Representative Ed Jennings (D-Gainesville). The bill creates a program in the Department of Education to offer computers and internet access at a discounted price to students enrolled in grades 5 through 12 in a public school, including a charter school or a home education program in the state. There was no debate on the bill and Frank Meiners of the AIF IT Council testified in support of the bill.

HB 765 will now be placed on the House calendar for consideration on the floor.

**AIF supports HB 765 because it introduces computers to children who may not otherwise have the opportunity the experience technology on a first hand basis. An increase in access to technology for school children benefits the business community by laying the foundation for a workforce that is equipped to handle the latest technologies. In addition, it increases the market for computer hardware and software, which will strengthen the IT industry.**

The House Education Council also unanimously approved HB 1237 by Representative David Meador (R-Lake Mary). This bill creates the 21<sup>st</sup> Century Technology, Research, and Scholarship Enhancement Act. The purpose of the Act is to:

- Invest in programs that attract world class scholars and build Centers of Excellence, both of which are important means of increasing technology-based businesses in this state;
- Require co-investment as a means of leveraging state dollars;
- Align research and development efforts with established, statewide economic-development strategies, including an emphasis on identified economic clusters;
- Facilitate value-added job creation through continuous improvement in university research, as well as entrepreneurship and capital-development programs; and

- Establish Florida as a leading state for entrepreneurship and innovation, with continued commitment to university centers and an expanding base of research and development.

HB 1237 will now be placed on the House calendar for consideration on the floor.

**AIF supports HB 1237 was a tool for increasing technology-based businesses in Florida, which will in turn improve economic development in the tech sector.**

## **BUSINESS REGULATION**

HB 1187 Relating to the Florida Building Code by Representative Dave Murzin (R-Pensacola) cleared its last committee of reference today by passing the State Infrastructure Council unanimously. This legislation authorizes the Florida Building Commission to amend the wind design standards for buildings in the Panhandle Region of the state. The bill also provides that once construction has begun and a local building official is unable to provide inspection services in a timely manner, the building owner or his or her contractor may elect to use a private provider for building inspection services. The bill also makes changes with regards to the Florida Fire Prevention Code by addressing conflicts within the update of the Florida Building Code.

HB 1187 will now be placed on the House calendar for consideration on the floor.

**AIF supports HB 1187 and the changes to the Florida Building Code with regards to the windborne debris requirements for the Panhandle Region. Even though it may cost the consumer more in the beginning, any increased cost could be offset by a reduction in hurricane related property damage.**

## **OTHER BILLS OF INTEREST:**

### **WORKFORCE DEVELOPMENT**

The House Education Council unanimously passed HB 801 Relating to the Ready to Work Certification Program by Representative Pat Patterson (R-DeLand). This bill focuses on the development of a skilled workforce in Florida by providing for certification of knowledge based workers critical to Florida's economic development. Florida Ready to Work Certification Programs may be conducted at public high schools, community colleges, technical centers, one-stop career centers, vocational rehabilitation centers and Department of Juvenile Justice educational facilities.

This program is currently appropriated \$15 million in the proposed House budget.

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.