

WITHDRAWN

1 Senators Clay of the 37th, Golden of the 8th, Price of the 56th and Thomas of the 54th
2 offered the following amendment:

3 Amend the Senate Health and Human Services Committee substitute to HB 372 by inserting
4 on line 5 of page 1 after the word and symbol "area;" the following:

5 "to provide limitations on liability for hospitals and health care providers who render
6 emergency care to patients;".

7 By inserting between lines 13 and 14 of page 2 the following:

"SECTION 2A.

8
9 Said title is further amended by adding after Article 4 of Chapter 11, relating to emergency
10 services, a new Article 5 to read as follows:

'ARTICLE 5

11
12 31-11-91.

13 (a) As used in this article, the term:

14 (1) "Emergency department" means a department or area of a hospital that provides care
15 for individuals with emergency medical conditions.

16 (2) "Emergency medical condition" means a medical condition manifesting itself by
17 acute symptoms of sufficient severity, including severe pain, such that the absence of
18 immediate medical attention could reasonably be expected to result in:

19 (A) Placing the health of the individual in serious jeopardy;

20 (B) Serious impairment to bodily functions; or

21 (C) Serious dysfunction of any bodily organ or part.

22 (3) "Health care provider" means any person licensed under Chapter 9, 11, 26, 30, 33,
23 34, 35, or 39 of Title 43 who provides care or assistance to an individual who has an
24 emergency medical condition within the scope of such health care provider's license,
25 either voluntarily or at the request of a hospital including, but not limited to, any health
26 care provider who is "on call" to a hospital.

27 (4) "Hospital" means a facility that has a valid permit or provisional permit issued by the
28 department under Chapter 7 of Title 31 and that operates an emergency department that
29 provides care or assistance to individuals who have an emergency medical condition.

30 Such term shall also include any employee of such hospital who provides assistance to

1 such individuals within the scope of his or her employment, whether or not such person
2 is a health care provider.

3 (5) "Noneconomic damages" means damages for physical and emotional pain, distress,
4 suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of
5 enjoyment of life, loss of society and companionship, loss of consortium, injury to
6 reputation, and all other nonpecuniary losses of any kind or nature.

7 (b) No hospital or health care provider who renders medical care or treatment to a patient
8 who presents to the hospital with an emergency medical condition at an unscheduled visit
9 shall be liable for any noneconomic damages resulting from any act or omission in the
10 rendering of such care or treatment. This limitation on noneconomic damages applies to
11 care and treatment rendered in an emergency department until the patient is fully stabilized,
12 but shall not apply to acts or omissions constituting gross negligence or willful or wanton
13 misconduct.

14 (c) The limitation on liability provided in subsection (b) of this Code section shall not
15 apply to any act or omission in rendering care or assistance:

16 (1) Unrelated to the original emergency medical condition; or

17 (2) That occurs after 24 hours from the time the patient presents to the hospital with an
18 emergency medical condition.

19 (d) A hospital or health care provider shall not be vicariously liable for the actions of a
20 physician engaged as an independent contractor unless there is an independent act of
21 negligence and an actual employment relationship exists between the physician and
22 hospital or health care provider."