

Senate Bill 415

By: Senators Gooch of the 51st, Miller of the 49th, Dugan of the 30th, Wilkinson of the 50th, Kennedy of the 18th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend various titles of the Official Code of Georgia Annotated so as to streamline the
2 process of litigation and reduce costs for Georgia's industries, small businesses, and citizens;
3 to amend Title 9 of the Official Code of Georgia Annotated, relating to civil practice, so as
4 to change certain provisions relating to the tolling of limitations for tort actions while
5 criminal prosecution is pending; to require a judge to provide written responses to jury
6 questions; to provide for disclosure of third-party agreements; to prohibit certain instructions
7 relating to damages; to change certain provisions related to settlement offers and agreements;
8 to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to
9 require certain procedures for disqualification of jurors; to amend Title 36 of the Official
10 Code of Georgia Annotated, relating to local government, so as to revise certain provisions
11 relating to the immunity of municipal corporations; to amend Title 40 of the Official Code
12 of Georgia Annotated, relating to motor vehicles and traffic, so as to change certain
13 provisions relating to insurance of motor carriers and certain causes of action; to provide for
14 certain presumptions when hiring commercial motor vehicle drivers; to provide for a
15 conforming change; to change certain provisions relating to safety belts and insurance
16 coverage and causes of action related thereto; to provide for statutory construction; to amend
17 Title 44 of the Official Code of Georgia Annotated, relating to property, so as to enact the
18 "Georgia Medical Funding Act" to govern disputes over medical funding; to provide for a
19 short title; to amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so
20 as to change certain provisions related to product liability; to provide for the protection of
21 all Georgia landowners from unwarranted liability for the willful, wanton, or intentional
22 tortious acts of third parties; to regulate the liability of landowners and provide for the
23 apportionment of fault among the parties to a premises-liability action in certain
24 circumstances; to provide for the recovery of special damages for medical and health care
25 expenses; to revise certain provisions relating to punitive damages; to provide for legislative
26 findings, definitions, discovery, and procedures related to asbestos claims; to provide for
27 related matters; to provide for severability; to provide for an effective date; to repeal
28 conflicting laws; and for other purposes.

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

30 **PART I**

31 **SECTION 1-1.**

32 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by
33 revising Code Section 9-3-99, relating to the tolling of limitations for tort actions while
34 criminal prosecution is pending, as follows:

35 "9-3-99.

36 The running of the period of limitations with respect to any cause of action in tort that may
37 be brought by the victim of an alleged ~~crime~~ felony which arises out of the facts and
38 circumstances relating to the commission of such alleged ~~crime~~ felony committed in this
39 state shall be tolled from the date of the commission of the alleged ~~crime or the act~~ felony
40 giving rise to such action in tort until the prosecution of such ~~crime or act~~ felony has
41 become final or otherwise terminated, provided that such time does not exceed six years,
42 except as otherwise provided in Code Section 9-3-33.1."

43 **SECTION 1-2.**

44 Said title is further amended by revising subsections (b) and (c) of Code Section 9-10-5,
45 relating to charges to be written out on request, exception, filing of written charges, and
46 copies, as follows:

47 "(b) In any civil action, ~~upon motion by a party, upon request by the jury, or sua sponte,~~
48 a judge of a superior, state, or city court ~~is authorized, but shall not be required, to reduce~~
49 all of the charge to the jury to writing and send all of the charge so reduced to writing out
50 with the jury during its deliberation. In response to any written question sent to the judge
51 by a jury during its deliberation, the judge, after consultation with counsel for all parties,
52 shall respond to the jury in writing.

53 (c) Any charge or response to a jury question reduced to writing under ~~subsection (a) or~~
54 ~~(b)~~ of this Code section shall be filed with the clerk of the court in which it was given and
55 shall be accessible to all persons interested in it. The clerk shall give certified copies of the
56 charge to any person applying therefor, upon payment of the usual fee."

57 **SECTION 1-3.**

58 Said title is further amended in subsection (b) of Code Section 9-11-26, relating to general
59 provisions governing discovery, by adding a new paragraph to read as follows:

60 "(2.1) **Third-party agreements.** Except as otherwise stipulated or ordered by the court,
61 a party shall, without awaiting a discovery request, provide to the other parties any

62 agreement under which any person, other than an attorney permitted to charge a
 63 contingent fee representing a party, has a right to receive compensation that is contingent
 64 on and sourced from any proceeds of the civil action, by settlement, judgment, or
 65 otherwise;"

66 **SECTION 1-4.**

67 Said title is further amended by revising Code Section 9-11-53, which was previously
 68 reserved, as follows:

69 "9-11-53.

70 In accordance with Code Section 51-12-33, the court and counsel for any party shall be
 71 prohibited from informing the trier of fact that the total amount of damages awarded to the
 72 plaintiff shall be reduced by an amount based on the negligence of the plaintiff or a
 73 nonparty. The court and counsel for any party shall be further prohibited from informing
 74 the trier of fact that the plaintiff shall not be entitled to receive any damages if the plaintiff
 75 is 50 percent or more responsible for the injury or damages claimed. Reserved."

76 **SECTION 1-5.**

77 Said title is further amended by revising Code Section 9-11-67.1, relating to settlement offers
 78 and agreements for personal injury, bodily injury, and death from motor vehicle and payment
 79 methods, as follows:

80 "9-11-67.1.

81 (a) ~~Any Prior to the filing of a civil action,~~ offer to settle a tort claim for personal injury,
 82 bodily injury, or death ~~arising from the use of a motor vehicle and prepared by or with the~~
 83 ~~assistance of an attorney on behalf of a claimant or claimants~~ shall be in writing and
 84 contain the following material terms:

85 (1) The time period within which such offer must be accepted, which shall be not less
 86 than 30 days from receipt of the offer;

87 (2) Amount of monetary payment;

88 (3) The party or parties the claimant or claimants will release if such offer is accepted;

89 (4) The type of release, full or limited, if any, the claimant or claimants will provide to
 90 each releasee; and

91 (5) The claims to be released.

92 (b) When making an offer, the offeror shall include:

93 (1) All medical records; and

94 (2) Either medical bills or receipts for payment of such bills related to the tort claim that
 95 can be reasonably obtained by the offeror.

96 ~~(b)~~(c) Unless otherwise agreed to by both the offeror and the recipient in writing, the
 97 material terms outlined in subsection (a) of this Code section are the only material terms
 98 which can be included in an offer to settle made pursuant to this Code section. The
 99 recipients of an offer to settle made under this Code section may accept the same by
 100 providing written acceptance of the material terms outlined in subsection (a) of this Code
 101 section in their entirety.

102 ~~(c)~~(d) Nothing in this Code section is intended to prohibit parties from reaching a
 103 settlement agreement ~~in a manner and~~ under terms otherwise agreeable to ~~the parties~~ both
 104 the offeror and the recipient of the offer.

105 ~~(d)~~(e) Upon receipt of an offer to settle as set forth in subsection (a) of this Code section,
 106 the recipients shall have the right to seek clarification regarding terms, liens, subrogation
 107 claims, standing to release claims, medical bills, medical records, and other relevant facts.
 108 Any attempt to seek clarification may be made verbally, in writing, or both verbally and
 109 in writing. An attempt to seek ~~reasonable~~ clarification shall not be deemed a counteroffer.

110 ~~(e)~~(f) An offer to settle made pursuant to this Code section shall be sent by certified mail
 111 or statutory overnight delivery, return receipt requested, ~~and~~ shall specifically reference this
 112 Code section, and shall include an address and either a facsimile number or an email
 113 address to which a written acceptance pursuant to subsection (c) of this Code section can
 114 be sent.

115 ~~(f)~~(g) The person or entity providing payment to satisfy the material term set forth in
 116 paragraph (2) of subsection (a) of this Code section may elect to provide payment by any
 117 one or more of the following means:

- 118 (1) Cash;
- 119 (2) Money order;
- 120 (3) Wire transfer;
- 121 (4) A cashier's check issued by a bank or other financial institution;
- 122 (5) A draft or bank check issued by an insurance company; or
- 123 (6) Electronic funds transfer or other method of electronic payment.

124 ~~(g)~~(h) Nothing in this Code section shall prohibit a party making an offer to settle from
 125 requiring payment ~~within a specified period by a certain date;~~ provided, however, that such
 126 ~~period shall be not less than ten days after the written acceptance of the offer to settle~~ date
 127 certain shall not be less than 40 days from the receipt of the offer.

128 ~~(h)~~(i) This Code section shall apply to causes of action for personal injury, bodily injury,
 129 and death arising ~~from the use of a motor vehicle~~ on or after July 1, ~~2013~~ 2020."

130

PART II

131

SECTION 2-1.

132 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 133 Code Section 15-12-135, relating to disqualification for relationship to interested party, as
 134 follows:

135 "15-12-135.

136 (a) All trial jurors in the courts of this state shall be disqualified to act or serve in any case
 137 or matter when such jurors are related by consanguinity or affinity to any party interested
 138 in the result of the case or matter within the third degree as computed according to the civil
 139 law. Relationship more remote shall not be a disqualification.

140 (b) Notwithstanding subsection (a) of this Code section, jurors shall not be qualified in
 141 open court regarding a relationship with any insurance company that may have a financial
 142 interest in the outcome of the case. Rather, jurors shall complete a questionnaire that
 143 identifies their current employers and their current insurance companies, if any. The court
 144 shall exclude any jurors for cause, after voir dire, if the questionnaire reveals a relationship
 145 to any insurance company that has a financial interest in the outcome of the case.

146 ~~(b)~~(c) Notwithstanding subsection (a) of this Code section, any juror, irrespective of his
 147 relationship to a party to the case or his interest in the case, shall be qualified to try any
 148 civil case when there is no defense filed unless one of the parties to the case objects to the
 149 related juror."

150

PART III

151

SECTION 3-1.

152 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 153 by revising Code Section 36-33-1, relating to immunity from liability for damages, waiver
 154 of immunity by purchase of liability insurance, and liability for acts or omissions generally,
 155 as follows:

156 "36-33-1.

157 (a) Pursuant to Article I, Section II, Paragraph IX and Article IX, Section II, Paragraph IX
 158 of the Constitution of the State of Georgia, the General Assembly, except as provided in
 159 this Code section and in Chapter 92 of this title, declares it is the public policy of the State
 160 of Georgia that there is no waiver of the sovereign immunity of municipal corporations of
 161 the state, and such municipal corporations shall be immune from liability for damages to
 162 the same extent that counties are immune as provided for in subsection (b) of this Code
 163 section. A municipal corporation shall not waive its immunity by the purchase of liability

164 insurance, except as provided in Code Section 33-24-51 or 36-92-2, or unless the policy
 165 of insurance issued covers an occurrence for which the defense of sovereign immunity is
 166 available, and then only to the extent of the limits of such insurance policy. ~~This~~
 167 ~~subsection shall not be construed to affect any litigation pending on July 1, 1986.~~

168 (b) Municipal corporations shall not be liable for failure to perform or for errors in
 169 performing their legislative or judicial powers. For neglect to perform or improper or
 170 unskillful performance of their ministerial duties, they shall be liable; provided, however,
 171 that municipal corporations shall only be liable to the same extent that counties are liable
 172 and they shall be immune to the same extent that counties are immune for any joint airport
 173 authority created between any municipal corporation and any county or counties and for
 174 any claims relating to motor vehicles owned or operated by such joint airport authority."

175 **PART IV**

176 **SECTION 4-1.**

177 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
 178 amended by revising Code Section 40-1-112, relating to insurance of motor carriers, as
 179 follows:

180 "40-1-112.

181 (a) No motor carrier of household goods or property or passengers shall be issued a motor
 182 carrier certificate unless there is filed with the department a certificate of insurance for such
 183 applicant or holder on forms prescribed by the commissioner evidencing a policy of
 184 indemnity insurance by an insurance company licensed to do business in this state, ~~which~~
 185 ~~policy must provide~~ that provides for the protection, in case of passenger vehicles, of
 186 passengers and the public against injury proximately caused by the negligence of such
 187 motor carrier, its servants, or its agents; and, in the case of vehicles transporting household
 188 goods, to secure the owner or person entitled to recover against loss or damage to such
 189 household goods for which the motor common carrier may be legally liable. The
 190 department shall determine and fix the amounts of such indemnity insurance and shall
 191 prescribe the provisions and limitations thereof. The insurer shall file such certificate. The
 192 failure to file any form required by the department shall not diminish the rights of any
 193 person to pursue an action directly against a motor carrier's insurer.

194 (b) The department shall have power to permit self-insurance, in lieu of a policy of
 195 indemnity insurance, whenever in its opinion the financial ability of the motor carrier so
 196 warrants.

197 ~~(c) It shall be permissible under this part for any person having a cause of action arising~~
 198 ~~under this part to join in the same action the motor carrier and the insurance carrier,~~
 199 ~~whether arising in tort or contract."~~

200

SECTION 4-2.

201 Said title is further amended by revising paragraph (4) of subsection (d) of Code Section
 202 40-2-140, relating to Department of Public Safety to administer provisions and registration,
 203 insurance, and fee requirements of motor carriers, as follows:

204 ~~"(4) Any person having a cause of action, whether arising in tort or contract, under this~~
 205 ~~Code section may join in the same cause of action the motor carrier and its insurance~~
 206 ~~carrier."~~

207

SECTION 4-3.

208 Said title is further amended by revising Code Section 40-5-145, relating to duties of
 209 employer, as follows:

210 "40-5-145.

211 (a) Each employer shall require every commercial motor vehicle driver applicant to
 212 provide the information specified in subsection (d) of Code Section 40-5-144.

213 (b) A person is presumed to possess the qualifications necessary to be hired and entrusted
 214 to drive a commercial motor vehicle if the person has a commercial driver's license issued
 215 by a state in accordance with the minimum federal standards for the issuance of
 216 commercial motor vehicle driver's licenses; if the person's license is not suspended,
 217 revoked, or cancelled at the time of the accident in question; and if the person is not
 218 disqualified from driving a commercial motor vehicle at the time of the accident in
 219 question.

220 ~~(b)(c)~~ No employer may knowingly allow, require, permit, or authorize a driver to drive
 221 a commercial motor vehicle during any period:

222 (1) In which the driver has a driver's license suspended, revoked, or canceled by a state;
 223 has lost the privilege to drive a commercial motor vehicle in a state; or has been
 224 disqualified from driving a commercial motor vehicle;

225 (2) In which the driver has more than one driver's license;

226 (3) In which the driver, or the commercial motor vehicle that he or she is driving, or the
 227 motor carrier operation, is subject to an ~~out of service~~ out-of-service order; or

228 (4) In violation of a federal, state, or local law or regulation pertaining to
 229 railroad-highway grade crossings."

230

SECTION 4-4.

231 Said title is further amended by revising subsection (a) of Code Section 40-5-159, relating
232 to violations, as follows:

233 "(a) Any person who drives a commercial motor vehicle while in violation of the
234 provisions of Code Section 40-5-143 or any employer who knowingly allows, requires,
235 permits, or authorizes a driver to drive a commercial motor vehicle in violation of the
236 provisions of subsection ~~(b)~~ (c) of Code Section 40-5-145 shall be guilty of a felony and,
237 upon conviction thereof, shall be punished as follows:

238 (1) Except as provided for in subsections (d) and (e) of this Code section, by a civil
239 penalty of \$2,500.00 for each offense; and

240 (2) By a fine of \$5,000.00, imprisonment for not more than 90 days, or both, for each
241 offense."

242

PART V

243

SECTION 5-1.

244 Said Title 40 is further amended by revising subsection (c) of Code Section 40-8-76, relating
245 to safety belts required as equipment and safety restraints for children, as follows:

246 "(c) Violation of this Code section ~~shall not constitute negligence per se nor contributory~~
247 ~~negligence per se~~ may be considered in any civil action as evidence admissible on the
248 issues of failure to mitigate damages, assumption of risk, apportionment of fault,
249 negligence, comparative negligence, contributory negligence, or causation. Violation of
250 subsection (b) of this Code section shall not be the basis for cancellation of insurance
251 coverage or increase in insurance rates."

252

SECTION 5-2.

253 Said title is further amended by revising Code Section 40-8-76.1, relating to use of safety
254 belts in passenger vehicles, as follows:

255 "40-8-76.1.

256 (a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle,
257 including, but not limited to, pickup trucks, vans, and sport utility vehicles, designed to
258 carry 15 passengers or fewer and used for the transportation of persons; provided, however,
259 that such term shall not include motorcycles; or motor driven cycles; or off-road vehicles
260 or pickup trucks being used by an owner, driver, or occupant 18 years of age or older in
261 connection with agricultural pursuits that are usual and normal to the user's farming
262 operation; and provided, further, that such term shall not include motor vehicles designed

263 ~~to carry 11 to 15 passengers which were manufactured prior to July 1, 2015, and which, as~~
 264 ~~of such date, did not have manufacturer installed seat safety belts.~~

265 (b) Each occupant ~~of the front seat~~ of a passenger vehicle shall, while such passenger
 266 vehicle is being operated on a public road, street, or highway of this state, be restrained by
 267 a seat safety belt approved under Federal Motor Vehicle Safety Standard 208.

268 (c) The requirement of subsection (b) of this Code section shall not apply to:

269 (1) A driver or passenger frequently stopping and leaving the vehicle or delivering
 270 property from the vehicle, if the speed of the vehicle between stops does not exceed 15
 271 miles per hour;

272 (2) A driver or passenger possessing a written statement from a physician that such
 273 person is unable, for medical or physical reasons, to wear a seat safety belt;

274 (3) A driver or passenger possessing an official certificate or license endorsement issued
 275 by the appropriate agency in another state or country indicating that the driver is unable
 276 for medical, physical, or other valid reasons to wear a seat safety belt;

277 (4) A driver operating a passenger vehicle in reverse;

278 (5) A passenger vehicle with a model year prior to 1965;

279 (6) A passenger vehicle which is not required to be equipped with seat safety belts under
 280 federal law;

281 (7) A passenger vehicle operated by a rural letter carrier of the United States Postal
 282 Service while performing duties as a rural letter carrier;

283 (8) A passenger vehicle from which a person is delivering newspapers; ~~or~~

284 (9) A passenger vehicle performing an emergency service; or

285 (10) Off-road vehicles or pickup trucks being used by an owner, driver, or occupant 18
 286 years of age or older in connection with agricultural pursuits that are usual and normal
 287 to the user's farming operation.

288 (d)(1) Except when occurring under the circumstances set forth in subsection (c) of this
 289 Code section, the ~~The~~ failure of an occupant of a ~~motor~~ passenger vehicle to wear a seat
 290 safety belt in any seat of a ~~motor~~ passenger vehicle which has a seat safety belt or belts
 291 ~~shall not be considered evidence of negligence or causation, shall not otherwise be~~
 292 ~~considered by the finder of fact on any question of liability of any person, corporation,~~
 293 ~~or insurer, shall not be any basis for cancellation of coverage or increase in insurance~~
 294 ~~rates, and shall not be evidence~~ may be considered in any civil action as evidence
 295 admissible on the issues of failure to mitigate damages, assumption of risk,
 296 apportionment of fault, negligence, comparative negligence, contributory negligence, or
 297 causation and may be used to diminish any recovery for damages arising out of the
 298 ~~ownership, maintenance, occupancy, or operation of a motor vehicle.~~

299 (2) The failure of an occupant of a passenger vehicle to wear a seat safety belt in any seat
 300 of a motor vehicle which has a seat safety belt or belts shall not be the basis for
 301 cancellation of insurance coverage.

302 (e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person
 303 failing to comply with the requirements of subsection (b) of this Code section shall not
 304 be guilty of any criminal act and shall not be guilty of violating any ordinance. A
 305 violation of this Code section shall not be a moving traffic violation for purposes of Code
 306 Section 40-5-57.

307 (2) A person failing to comply with the requirements of subsection (b) of this Code
 308 section shall be guilty of the offense of failure to wear a seat safety belt and, upon
 309 conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11
 310 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of
 311 such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to
 312 a fine for such offense be assessed against a person for conviction thereof. The court
 313 imposing such fine shall forward a record of the disposition of the case of failure to wear
 314 a seat safety belt to the Department of Driver Services.

315 (3) Each minor eight years of age or older who is an occupant of a passenger vehicle
 316 shall, while such passenger vehicle is being operated on a public road, street, or highway
 317 of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle
 318 Safety Standard 208. In any case where a minor passenger eight years of age or older
 319 fails to comply with the requirements of this paragraph, the driver of the passenger
 320 vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and,
 321 upon conviction thereof, may be fined not more than \$25.00. The court imposing such
 322 a fine shall forward a record of the court disposition of the case of failure to secure a seat
 323 safety belt on a minor to the Department of Driver Services.

324 (f) Probable cause for violation of this Code section shall be based solely upon a law
 325 enforcement officer's clear and unobstructed view of a person not restrained as required by
 326 this Code section. Noncompliance with the restraint requirements of this Code section
 327 shall not constitute probable cause for violation of any other Code section."

328 **SECTION 5-3.**

329 To the extent that the Georgia Court of Appeals' rulings in Reid v. Odom, 199 Ga. App. 146,
 330 404 S.E.2d 323 (1991), Boatwright v. Czerepinski, 194 Ga. App. 697, 391 S.E.2d 685
 331 (1990), Katz v. White, 190 Ga. App. 458, 379 S.E.2d 186 (1989), Sapp v. Johnson, 184 Ga.
 332 App. 603, 362 S.E.2d 82 (1987), and any other decisions limit the purposes for which seat
 333 safety belt nonusage evidence may be admitted or create additional conditions for the
 334 consideration of such evidence which are not consistent with the provisions of Sections 6-1

335 and 6-2 of this Act, these decisions are contrary to the General Assembly's intent and shall
336 be deemed overruled on the effective date of this Act.

337 **PART VI**
338 **SECTION 6-1.**

339 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
340 adding a new part to Article 8 of Chapter 14, relating to liens, to read as follows:

341 "Part 8A

342 44-14-480.

343 This part shall be known and may be cited as the 'Georgia Medical Funding Act.'

344 44-14-481.

345 As used in this part, the term:

346 (1) 'Collateral sources' means payments paid on behalf of a consumer by licensed
347 commercial health insurers, Medicaid, Medicare, licensed workers' compensation
348 insurers, or any employment benefit plan.

349 (2) 'Consumer' means any natural person who resides, is present, or domiciled in this
350 state or who is or may become a plaintiff or claimant in any claim or lawsuit for bodily
351 injuries in this state.

352 (3) 'Medical funding' means a transaction in which a third party purchases medical bills
353 or accounts from a health care provider or otherwise pays for services rendered by a
354 health care provider and obtains a lien against or right to recover from the settlement or
355 proceeds from the consumer's bodily injury claim or lawsuit. The term does not include
356 any payments or agreements to pay that are collateral sources.

357 (4) 'Medical funding provider' means a person, entity, or partnership engaged in the
358 business of medical funding.

359 44-14-482.

360 In any dispute in which a medical funding provider has provided payment to a consumer's
361 health care provider:

362 (1) Any agreement entered into between a medical funding provider and the consumer's
363 health care provider regarding payment for services rendered to the consumer shall be
364 disclosed to the consumer at the time treatment is rendered or the agreement is entered
365 into, whichever is earlier;

366 (2) The amount a medical funding provider paid to the consumer's health care provider
 367 for any services rendered shall be disclosed to the consumer at the time treatment is
 368 rendered or the agreement is entered into, whichever is earlier;

369 (3) If the consumer asserts a claim for bodily injury against a tortfeasor, an insurance
 370 carrier, or both, any agreement entered into between a medical funding provider and the
 371 consumer's health care provider regarding payment for services rendered to the consumer
 372 shall be disclosed by the consumer to the tortfeasor and the insurance carrier, as
 373 applicable; and

374 (4) If the consumer files a lawsuit for bodily injury against a tortfeasor, an insurance
 375 carrier, or both, any financial relationship or agreements, including the details of the
 376 same, entered into between a medical funding provider and a consumer's health care
 377 provider regarding payment for services rendered to the consumer by the health care
 378 provider, as well as evidence of any ongoing financial relationship between the medical
 379 funding provider and the consumer's health care provider, shall be discoverable and
 380 admissible into evidence at the trial of such lawsuit to show the potential bias and
 381 credibility of any causation testimony offered by the consumer's health care provider.

382 44-14-483.

383 A medical funding provider shall not:

384 (1) Pay or offer to pay commissions, referral fees, or other forms of consideration to any
 385 attorney, law firm, or health care provider or any of their employees for referring a
 386 consumer to a specific health care provider or attorney;

387 (2) Refer a consumer or potential consumer to a specific attorney, law firm, or health
 388 care provider or any of their employees; provided, however, that if a consumer does not
 389 have legal representation, the medical funding provider may refer the consumer to a local
 390 or state legal referral service operated by a bar association or nonprofit organization;

391 (3) Fail to supply within 30 days, upon request, copies of any and all complete medical
 392 funding contracts regarding payment for services rendered to a consumer and any
 393 attorney representing a consumer upon request;

394 (4) Accept any commissions, referral fees, rebates, or other forms of consideration from
 395 an attorney, law firm, or health care provider or any of their employees; or

396 (5) Make a decision relating to the conduct, settlement, or resolution of the underlying
 397 legal claim, the power of which shall remain solely with the consumer.

398 44-14-484.

399 If the consumer files a lawsuit for bodily injury against a tortfeasor, an insurance carrier,
 400 or both, and seeks to recover the charges associated with any bill or account that was the

401 subject of a medical funding transaction, any violation of paragraph (1), (2), or (4) of Code
 402 Section 44-14-482 shall be admissible into evidence at the trial of such lawsuit."

403 **PART VII**
 404 **SECTION 7-1.**

405 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising
 406 subsection (c) of Code Section 51-1-11, relating to when privity required to support action,
 407 product liability action and time limitation therefore, and industry-wide liability theories
 408 rejected, as follows:

409 "(c) The limitation of paragraph (2) of subsection (b) of this Code section regarding
 410 bringing an action within ten years from the date of the first sale for use or consumption
 411 of personal property shall also apply to the commencement of an action claiming
 412 negligence of a manufacturer as the basis of liability, except an action seeking to recover
 413 from a manufacturer for injuries or damages arising out of the negligence of such
 414 manufacturer in manufacturing products which cause a disease or birth defect, or arising
 415 out of conduct which manifests a ~~willful, reckless, or wanton~~ an intentional disregard for
 416 life or property. Nothing contained in this subsection shall relieve a manufacturer from the
 417 duty to warn of a unreasonable danger arising from use of a product once that unreasonable
 418 danger actually becomes known to the manufacturer. Constructive knowledge of such
 419 unreasonable danger shall not provide a basis for liability in a duty to warn claim beyond
 420 ten years of the date of the first sale."

421 **SECTION 7-2.**

422 Said title is further amended by adding a new Code section to read as follows:

423 "51-3-4.

424 (a) As used in this Code section, the term:

425 (1) 'Landowner' means any person who owns, occupies, leases, operates, maintains, or
 426 manages any residential, agricultural, commercial, or other real property in the State of
 427 Georgia; any director, officer, employee, or agent of such person; and any independent
 428 contractor acting on behalf of any such person.

429 (2) 'Premises-liability action' means any civil action sounding in tort based upon the duty
 430 owed to someone injured on a landowner's property as the result of conditions present or
 431 activities occurring upon the property.

432 (3) 'Property' means any residential, agricultural, commercial, or other real property,
 433 whether held in fee simple or under a leasehold, life estate, estate for years, usufruct,

434 easement, license, or other instrument of title, that is owned, operated, maintained, or
435 managed by a landowner.

436 (b) Notwithstanding any other provision of law, no landowner shall be liable in a
437 premises-liability action to any invitee who is injured on the landowner's property as a
438 result of the willful, wanton, or intentional tortious conduct of any third party who is not
439 a director, officer, employee, or agent of the landowner unless the invitee can prove by
440 clear and convincing evidence that:

441 (1) The conduct of said third party occurred within the legal boundaries of the
442 landowner's property; and

443 (2)(A) The conduct of the landowner actively and affirmatively, and with a degree of
444 conscious decision-making, impelled the specific action of said third party; or

445 (B) The landowner had actual knowledge of the specific threat of imminent harm to
446 the invitee from said third party and, through reasonable action, the landowner could
447 have prevented that harm from occurring; and

448 (3) The landowner's conduct proximately caused the economic and noneconomic
449 damages allegedly suffered by the invitee.

450 (c) No landowner shall be held liable in a premises-liability action to any licensee who is
451 injured on the landowner's property as a result of the willful, wanton, or intentional tortious
452 conduct of any third party who is not a director, officer, employee, or agent of the
453 landowner unless the licensee can prove by clear and convincing evidence that:

454 (1) The conduct of said third party occurred within the legal boundaries of the
455 landowner's property;

456 (2) The landowner willfully and wantonly impelled the specific action of said third party;
457 and

458 (3) The landowner's conduct proximately caused the economic and noneconomic
459 damages allegedly suffered by the licensee.

460 (d) No landowner shall be held liable in a premises-liability action to any trespasser who
461 is injured on the landowner's property as a result of the willful, wanton, or intentional
462 tortious conduct of any third party who is not a director, officer, employee, or agent of the
463 landowner unless the trespasser can prove by clear and convincing evidence that:

464 (1) The conduct of said third party occurred within the legal boundaries of the
465 landowner's property;

466 (2) The landowner acted with the specific intent to harm the trespasser and impelled the
467 specific action of said third party; and

468 (3) The landowner's conduct proximately caused the economic and noneconomic
469 damages allegedly suffered by the trespasser.

470 (e) No liability may be imposed upon any landowner under this Code section premised in
 471 whole or in part upon the landowner's alleged constructive knowledge of prior crimes on
 472 or near the landowner's property or upon the landowner's alleged constructive knowledge
 473 of the prior crimes or violent nature of a third party whose acts or omissions proximately
 474 caused the alleged injury or damage.

475 (f)(1) In any premises-liability action brought against a landowner under this Code
 476 section, the trier of fact, in making the apportionment of fault under Code Section
 477 51-12-33 shall:

478 (A) Only apportion fault to the landowner for the acts or omissions of the landowner;

479 (B) Fairly and accurately apportion fault to a third party for the willful, wanton, or
 480 intentional conduct of such third party; and

481 (C) Not consider the pendency of criminal charges against a third party, the financial
 482 resources of any of the parties to the premises-liability action, the impact of such a
 483 finding upon the court's judgment in the case, or any other factors except the relative
 484 degrees of fault among the parties.

485 (2) If the jury fails to apportion an appropriate degree of fault to a third party, the trial
 486 court may, in the exercise of its sound discretion, set aside the verdict of the jury and
 487 order a retrial of the case.

488 (3) Notwithstanding the provisions of this Code section or any other provisions of law
 489 which might be construed to the contrary, the injured party shall not be entitled to receive
 490 any damages if the plaintiff is 50 percent or more responsible for the injury or damages
 491 claimed."

492 **PART VIIIA**

493 **SECTION 7A-1.**

494 Said Title 51 is further amended by adding a new Code section to read as follows:

495 "51-12-1.1.

496 (a) In any civil action to recover damages resulting from injury or death to a person, the
 497 special damages for medical and health care expenses that may be admissible shall be
 498 limited to the amounts actually:

499 (1) Paid by or on behalf of the claimant to health care providers for medically necessary
 500 care, treatment, or services; and

501 (2) Necessary to satisfy incurred but unpaid charges for medically necessary care,
 502 treatment, or services due to the health care provider by the claimant or a third party on
 503 behalf of the claimant.

504 (b) In any action to recover damages resulting from death or injury to a person, nothing
 505 in this Code section shall be construed to limit the right of a defendant to present evidence
 506 or testimony, or both, challenging the medical and health care expenses, whether incurred
 507 or projected future expenses, or the necessity of any treatment."

508 **SECTION 7A-2.**

509 Said title is further amended by revising subsections (e) and (f) of Code Section 51-12-5.1,
 510 relating to punitive damages, as follows:

511 ~~"(e)(1) In a tort case in which the cause of action arises from product liability, there shall~~
 512 ~~be no limitation regarding the amount which may be awarded as punitive damages. Only~~
 513 one award of punitive damages may be recovered in a court in this state from a defendant
 514 for any act or omission ~~if the cause of action arises from product liability~~, regardless of
 515 the number of causes of action which may arise from such act or omission.

516 (2) Seventy-five percent of any amounts awarded under this subsection as punitive
 517 damages, less a proportionate part of the costs of litigation, including reasonable
 518 attorney's fees, all as determined by the trial judge, shall be paid into the treasury of the
 519 state through the Office of the State Treasurer. Upon issuance of judgment in such a
 520 case, the state shall have all rights due a judgment creditor until such judgment is satisfied
 521 and shall stand on equal footing with the plaintiff of the original case in securing a
 522 recovery after payment to the plaintiff of damages awarded other than as punitive
 523 damages. A judgment debtor may remit the state's proportional share of punitive
 524 damages to the clerk of the court in which the judgment was rendered. It shall be the
 525 duty of the clerk to pay over such amounts to the Office of the State Treasurer within 60
 526 days of receipt from the judgment debtor. This paragraph shall not be construed as
 527 making the state a party at interest and the sole right of the state is to the proceeds as
 528 provided in this paragraph.

529 ~~(f) In a tort case in which the cause of action does not arise from product liability~~, if it is
 530 found that the defendant acted, or failed to act, with the specific intent to cause harm, or
 531 that the defendant acted or failed to act while under the influence of alcohol, drugs other
 532 than lawfully prescribed drugs administered in accordance with prescription, or any
 533 intentionally consumed glue, aerosol, or other toxic vapor to that degree that his or her
 534 judgment is substantially impaired, there shall be no limitation regarding the amount which
 535 may be awarded as punitive damages against an active ~~tort-feasor~~ tortfeasor but such
 536 damages shall not be the liability of any defendant other than an active ~~tort-feasor~~
 537 tortfeasor."

538

PART VIIB

539

SECTION 7B-1.

540 Said Title 51 is further amended by revising paragraphs (7), (8), and (9) of subsection (a) of
 541 Code Section 51-14-7, relating to sworn information form providing required information,
 542 failure to state a claim, and class actions barred, as follows:

543 ~~“(7) The specific condition related to asbestos or silica claimed to exist; and~~
 544 ~~(8) Any supporting documentation of the condition claimed to exist; and~~
 545 ~~(9) The identity of any bankruptcy trust to which a claim has been submitted concerning~~
 546 ~~any asbestos or silica injury of the exposed person, attaching any claim form or other~~
 547 ~~information submitted to such trust or trusts with respect to the exposed person. Plaintiff~~
 548 ~~must also identify any bankruptcy trust that the plaintiff believes is or may be liable for~~
 549 ~~all or part of the injury at issue, even if a claim has not been submitted to that trust at the~~
 550 ~~time the complaint is filed.”~~

551

SECTION 7B-2.

552 Said title is further amended by adding a new chapter to read as follows:

553

“CHAPTER 16554 51-16-1.555 (a) The General Assembly finds that:556 (1) Over 120 employers have declared bankruptcy at least partially due to asbestos
557 related liability;558 (2) Scores of trusts have been established in bankruptcy proceedings to form a
559 multibillion dollar compensation system for asbestos claimants outside of the civil courts,
560 and new asbestos trusts continue to be formed;561 (3) Asbestos claimants typically seek compensation from solvent defendants in civil
562 actions and from trusts or claims facilities formed in asbestos bankruptcy proceedings;563 (4) There is limited transparency between these two paths to recovery;564 (5) An absence of transparency with respect to asbestos bankruptcy trust claims has
565 resulted in the suppression of evidence in asbestos actions;566 (6) A federal bankruptcy court found that trust claim filings are being manipulated and
567 information withheld in order to inflate recoveries in asbestos actions;568 (7) The lack of transparency regarding trust claims information harms Georgia
569 employers, their employees, their shareholders, and the communities in which they

570 operate. Companies that pay inflated settlements and awards in asbestos actions have
 571 fewer resources to pay future claimants and invest in the state's economy; and
 572 (8) Transparency with respect to asbestos trust claims and claims made in civil asbestos
 573 actions promotes the integrity of asbestos actions and furthers recovery longevity to help
 574 future plaintiffs.

575 (b) It is the purpose of this chapter to:

576 (1) Provide transparency with respect to asbestos trust claims and claims made in civil
 577 asbestos actions; and

578 (2) Reduce the opportunity for withholding or suppressing trust related exposure
 579 evidence in asbestos actions.

580 51-16-2.

581 As used in this chapter, the term:

582 (1) 'Asbestos action' means any claim for damages or other civil or equitable relief
 583 presented in a civil action arising out of, based on, or in any way related to the health
 584 effects of exposure to asbestos, and any other derivative claim made by or on behalf of
 585 a person exposed to asbestos or a representative, spouse, parent, child, or other relative
 586 of that person.

587 (2) 'Asbestos trust' means a government approved or court approved trust, qualified
 588 settlement fund, compensation fund, or claims facility that is created as a result of an
 589 administrative or legal action, a court approved bankruptcy, or under 11 U.S.C. Section
 590 524(g), 11 U.S.C. Section 1121(a), or other applicable provision of law and is intended
 591 to provide compensation to claimants arising out of, based on, or in any way related to
 592 the health effects of exposure to asbestos.

593 (3) 'Trust claims materials' means any final executed proof of claim and any other
 594 document or information submitted to or received from an asbestos trust, including a
 595 claim form or supplementary material, affidavit, deposition or trial testimony, work
 596 history, exposure allegation, medical or health record, document reflecting the status of
 597 a claim against an asbestos trust, and, if the trust claim has been settled, any document
 598 relating to such settlement.

599 (4) 'Trust governance documents' means any document that relates to eligibility and
 600 payment levels, including a claims payment matrix, trust distribution procedure, or plan
 601 for reorganization for an asbestos trust.

602 51-16-3.

603 (a) In addition to the requirements set forth in Chapter 14 of this title, a plaintiff shall do
 604 all of the following within 30 days of filing an asbestos action:

605 (1) Provide all parties with a sworn statement indicating that an investigation of all
606 asbestos trust claims has been conducted and that all asbestos trust claims that can be
607 made by the plaintiff have been filed; and

608 (2) Identify all asbestos trust claims made by the plaintiff and provide all parties with all
609 trust claims materials.

610 (b) A plaintiff shall supplement the information and materials required under subsection
611 (a) of this Code section within 30 days after the plaintiff files an additional asbestos trust
612 claim, supplements an existing asbestos trust claim, or receives additional information or
613 materials related to an asbestos trust claim.

614 51-16-4.

615 (a) Not less than 60 days before trial of an asbestos action, if a defendant believes the
616 plaintiff has not filed all asbestos trust claims as required by Code Section 51-16-3, the
617 defendant may move the court for an order to require the plaintiff to file additional asbestos
618 trust claims the defendant believes the plaintiff is eligible to file.

619 (b) If the court determines there is a sufficient basis for the plaintiff to file an asbestos trust
620 claim identified by the defendant, the court shall stay the asbestos action until the plaintiff
621 files the trust claim and produces all related trust claims materials. An asbestos action may
622 not proceed to trial until at least 60 days after the plaintiff complies with the court's order.

623 51-16-5.

624 (a) A defendant in an asbestos action may seek discovery from an asbestos trust. The
625 plaintiff may not claim privilege or confidentiality to bar discovery and shall provide
626 consent or another expression of permission that may be required by the asbestos trust to
627 release the information and materials sought by the defendant.

628 (b) Trust claims materials and trust governance documents are presumed to be relevant and
629 authentic and are admissible in evidence. No claim of privilege shall apply to trust claims
630 materials or trust governance documents.

631 (c) Trust claims materials that are sufficient to entitle a claim to consideration for payment
632 under the applicable trust governance documents may be sufficient to support a jury finding
633 that the claimant was exposed to products for which the trust was established to provide
634 compensation and that such exposure was a substantial contributing factor in causing the
635 claimant's injury that is at issue in the asbestos action.

636 51-16-6.

637 If a plaintiff files an asbestos trust claim after obtaining a judgment in an asbestos action
638 and the asbestos trust was in existence at the time of such judgment, the trial court, upon

639 motion by a defendant, shall adjust the judgment by the amount of any subsequent asbestos
640 trust payments obtained by the plaintiff."

641 **SECTION 7B-3.**

642 Said title is further amended by adding a new chapter to read as follows:

643 "CHAPTER 17

644 51-17-1.

645 A defendant in a product liability action related to asbestos shall not be liable for exposures
646 from a product or component part made or sold by a third party."

647 **PART VIII**

648 **SECTION 8-1.**

649 This Act shall be severable in accordance with Code Section 1-1-3 of the Official Code of
650 Georgia Annotated.

651 **SECTION 8-2.**

652 This Act shall become effective upon its approval by the Governor or upon its becoming law
653 without such approval.

654 **SECTION 8-3.**

655 All laws and parts of laws in conflict with this Act are repealed.