

The Senate Committee on Insurance and Labor offered the following substitute to SB 415:

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 provide for separate trials
7 for issues of liability and damages under certain circumstances; to prohibit certain
8 instructions relating to damages; to amend Title 15 of the Official Code of Georgia
9 Annotated, relating to courts, so as to require certain procedures for disqualification of jurors;
10 to amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
11 so as to revise certain provisions relating to the immunity of municipal corporations; to
12 amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
13 traffic, so as to change certain provisions relating to insurance of motor carriers and certain
14 causes of action; to provide for certain presumptions when hiring commercial motor vehicle
15 drivers; to provide for a conforming change; to change certain provisions relating to safety
16 belts and insurance coverage and causes of action related thereto; to provide for statutory
17 construction; to amend Title 44 of the Official Code of Georgia Annotated, relating to
18 property, so as to enact the "Georgia Medical Funding Act" to govern disputes over medical
19 funding; to provide for a short title; to amend Title 51 of the Official Code of Georgia
20 Annotated, relating to torts, so as to change certain provisions related to product liability; to
21 provide for the protection of all Georgia landowners from unwarranted liability for the
22 willful, wanton, or intentional tortious acts of third parties; to regulate the liability of
23 landowners and provide for the apportionment of fault among the parties to a
24 premises-liability action in certain circumstances; to provide for the recovery of special
25 damages for medical and health care expenses; to revise certain provisions relating to
26 punitive damages; to provide for legislative findings, definitions, discovery, and procedures
27 related to asbestos claims; to provide for related matters; to provide for severability; to
28 provide for an effective date; to repeal 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 1-3A.**

67 Said title is further amended by revising subsection (b) of Code Section 9-11-42, relating to
 68 consolidation and severance, as follows:

69 "(b) **Separate trials.**

70 (1) The court, in furtherance of convenience, or to avoid prejudice, or to expedite and
 71 economize, may order a separate trial of any claim, cross-claim, counterclaim, or
 72 third-party claim, or of any separate issue, or of any number of claims, cross-claims,
 73 counterclaims, third-party claims, or issues. In exercising discretion, the court shall
 74 consider the merits of each individual case when granting or denying bifurcation.

75 (2) In determining whether to order a separate trial to avoid prejudice, the court shall
 76 consider whether:

77 (A) The issues of liability and damages are unrelated;

78 (B) The issues of liability and damages are significantly different from one another;

79 (C) The issues to be bifurcated are essentially independent of one another for
 80 evidentiary purposes;

81 (D) The evidence relevant to damages could have a prejudicial impact on a
 82 determination of liability;

83 (E) The evidence relevant to damages poses a substantial risk of impairing the
 84 objectivity of the jury on liability issues;

85 (F) The evidence relevant to damages could adversely or improperly affect the fair and
 86 impartial consideration of the liability issues by the jury; and

87 (G) The party opposing bifurcation would be prejudiced if granted.

88 (3) The same trier of fact shall determine issues relating to liability and issues relating
 89 to damages."

90 **SECTION 1-4.**

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

93 "9-11-53.

94 In accordance with Code Section 51-12-33, the court and counsel for any party shall be
 95 prohibited from informing the trier of fact that the total amount of damages awarded to the
 96 plaintiff shall be reduced by an amount based on the negligence of the plaintiff or a

97 nonparty. The court and counsel for any party shall be further prohibited from informing
 98 the trier of fact that the plaintiff shall not be entitled to receive any damages if the plaintiff
 99 is 50 percent or more responsible for the injury or damages claimed. Reserved."

100

PART II

101

SECTION 2-1.

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

105 "15-12-135.

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

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

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

120

PART III

121

SECTION 3-1.

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

126 "36-33-1.

127 (a) Pursuant to Article I, Section II, Paragraph IX and Article IX, Section II, Paragraph IX
 128 of the Constitution of the State of Georgia, the General Assembly, except as provided in
 129 this Code section and in Chapter 92 of this title, declares it is the public policy of the State

130 of Georgia that there is no waiver of the sovereign immunity of municipal corporations of
 131 the state, and such municipal corporations shall be immune from liability for damages to
 132 the same extent that counties are immune as provided for in subsection (b) of this Code
 133 section. A municipal corporation shall not waive its immunity by the purchase of liability
 134 insurance, except as provided in Code Section 33-24-51 or 36-92-2, or unless the policy
 135 of insurance issued covers an occurrence for which the defense of sovereign immunity is
 136 available, and then only to the extent of the limits of such insurance policy. ~~This~~
 137 ~~subsection shall not be construed to affect any litigation pending on July 1, 1986.~~

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

145 PART IV

146 SECTION 4-1.

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

150 "40-1-112.

151 (a) No motor carrier of household goods or property or passengers shall be issued a motor
 152 carrier certificate unless there is filed with the department a certificate of insurance for such
 153 applicant or holder on forms prescribed by the commissioner evidencing a policy of
 154 indemnity insurance by an insurance company licensed to do business in this state, ~~which~~
 155 ~~policy must provide~~ that provides for the protection, in case of passenger vehicles, of
 156 passengers and the public against injury proximately caused by the negligence of such
 157 motor carrier, its servants, or its agents; and, in the case of vehicles transporting household
 158 goods, to secure the owner or person entitled to recover against loss or damage to such
 159 household goods for which the motor common carrier may be legally liable. The
 160 department shall determine and fix the amounts of such indemnity insurance and shall
 161 prescribe the provisions and limitations thereof. The insurer shall file such certificate. The
 162 failure to file any form required by the department shall not diminish the rights of any
 163 person to pursue an action directly against a motor carrier's insurer.

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

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

170 **SECTION 4-2.**

171 Said title is further amended by revising paragraph (4) of subsection (d) of Code Section
 172 40-2-140, relating to Department of Public Safety to administer provisions and registration,
 173 insurance, and fee requirements of motor carriers, as follows:

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

177 **SECTION 4-3.**

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

180 "40-5-145.

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

183 (b) A person is presumed to possess the qualifications necessary to be hired and entrusted
 184 to drive a commercial motor vehicle if the person has a commercial driver's license issued
 185 by a state in accordance with the minimum federal standards for the issuance of
 186 commercial motor vehicle driver's licenses; if the person's license is not suspended,
 187 revoked, or cancelled at the time of the accident in question; and if the person is not
 188 disqualified from driving a commercial motor vehicle at the time of the accident in
 189 question.

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

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

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

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

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

200 **SECTION 4-4.**

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

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

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

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

212 **PART V**

213 **SECTION 5-1.**

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

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

222 **SECTION 5-2.**

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

225 "40-8-76.1.

226 (a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle,
227 including, but not limited to, pickup trucks, vans, and sport utility vehicles, designed to
228 carry 15 passengers or fewer and used for the transportation of persons; provided, however,
229 that such term shall not include motorcycles; or motor driven cycles; ~~or off-road vehicles~~
230 ~~or pickup trucks being used by an owner, driver, or occupant 18 years of age or older in~~

231 ~~connection with agricultural pursuits that are usual and normal to the user's farming~~
 232 ~~operation; and provided, further, that such term shall not include motor vehicles designed~~
 233 ~~to carry 11 to 15 passengers which were manufactured prior to July 1, 2015, and which, as~~
 234 ~~of such date, did not have manufacturer installed seat safety belts.~~

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

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

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

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

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

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

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

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

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

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

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

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

258 (d)(1) Except when occurring under the circumstances set forth in subsection (c) of this
 259 Code section, the ~~The~~ failure of an occupant of a motor passenger vehicle to wear a seat
 260 safety belt in any seat of a motor passenger vehicle which has a seat safety belt or belts
 261 ~~shall not be considered evidence of negligence or causation, shall not otherwise be~~
 262 ~~considered by the finder of fact on any question of liability of any person, corporation,~~
 263 ~~or insurer, shall not be any basis for cancellation of coverage or increase in insurance~~
 264 ~~rates, and shall not be evidence~~ may be considered in any civil action as evidence
 265 admissible on the issues of failure to mitigate damages, assumption of risk,
 266 apportionment of fault, negligence, comparative negligence, contributory negligence, or

267 causation and may be used to diminish any recovery for damages ~~arising out of the~~
 268 ~~ownership, maintenance, occupancy, or operation of a motor vehicle.~~

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

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

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

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

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

298 **SECTION 5-3.**

299 To the extent that the Georgia Court of Appeals' rulings in Reid v. Odom, 199 Ga. App. 146,
 300 404 S.E.2d 323 (1991), Boatwright v. Czerepinski, 194 Ga. App. 697, 391 S.E.2d 685
 301 (1990), Katz v. White, 190 Ga. App. 458, 379 S.E.2d 186 (1989), Sapp v. Johnson, 184 Ga.
 302 App. 603, 362 S.E.2d 82 (1987), and any other decisions limit the purposes for which seat

303 safety belt nonusage evidence may be admitted or create additional conditions for the
 304 consideration of such evidence which are not consistent with the provisions of Sections 6-1
 305 and 6-2 of this Act, these decisions are contrary to the General Assembly's intent and shall
 306 be deemed overruled on the effective date of this Act.

307 **PART VI**
 308 **SECTION 6-1.**

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

311 "Part 8A

312 44-14-480.

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

314 44-14-481.

315 As used in this part, the term:

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

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

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

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

329 44-14-482.

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

332 (1) Any agreement entered into between a medical funding provider and the consumer's
 333 health care provider regarding payment for services rendered to the consumer shall be

334 disclosed to the consumer at the time treatment is rendered or the agreement is entered
335 into, whichever is earlier;

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

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

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

352 44-14-483.

353 A medical funding provider shall not:

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

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

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

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

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

368 44-14-484.

369 If the consumer files a lawsuit for bodily injury against a tortfeasor, an insurance carrier,
 370 or both, and seeks to recover the charges associated with any bill or account that was the
 371 subject of a medical funding transaction, any violation of paragraph (1), (2), or (4) of Code
 372 Section 44-14-482 shall be admissible into evidence at the trial of such lawsuit."

373 **PART VII**

374 **SECTION 7-1.**

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

379 "(c) The limitation of paragraph (2) of subsection (b) of this Code section regarding
 380 bringing an action within ten years from the date of the first sale for use or consumption
 381 of personal property shall also apply to the commencement of an action claiming
 382 negligence of a manufacturer as the basis of liability, except an action seeking to recover
 383 from a manufacturer for injuries or damages arising out of the negligence of such
 384 manufacturer in manufacturing products which cause a disease or birth defect, or arising
 385 out of conduct which manifests ~~a willful, reckless, or wanton~~ an intentional disregard for
 386 life or property. Nothing contained in this subsection shall relieve a manufacturer from the
 387 duty to warn of a unreasonable danger arising from use of a product once that unreasonable
 388 danger actually becomes known to the manufacturer. Constructive knowledge of such
 389 unreasonable danger shall not provide a basis for liability in a duty to warn claim beyond
 390 ten years of the date of the first sale."

391 **SECTION 7-2.**

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

393 "51-3-4.

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

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

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

402 (3) 'Property' means any residential, agricultural, commercial, or other real property,
403 whether held in fee simple or under a leasehold, life estate, estate for years, usufruct,
404 easement, license, or other instrument of title, that is owned, operated, maintained, or
405 managed by a landowner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

445 (f)(1) In any premises-liability action brought against a landowner under this Code
 446 section, the trier of fact, in making the apportionment of fault under Code Section
 447 51-12-33 shall:

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

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

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

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

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

462 **PART VIIA**

463 **SECTION 7A-1.**

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

465 "51-12-1.1.

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

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

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

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

478 **SECTION 7A-2.**

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

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

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

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

506 damages shall not be the liability of any defendant other than an active ~~tort-feasor~~
507 tortfeasor."

508 **PART VIIB**
509 **SECTION 7B-1.**

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

513 "(7) The specific condition related to asbestos or silica claimed to exist; and
514 (8) Any supporting documentation of the condition claimed to exist; ~~and~~
515 ~~(9) The identity of any bankruptcy trust to which a claim has been submitted concerning~~
516 ~~any asbestos or silica injury of the exposed person, attaching any claim form or other~~
517 ~~information submitted to such trust or trusts with respect to the exposed person. Plaintiff~~
518 ~~must also identify any bankruptcy trust that the plaintiff believes is or may be liable for~~
519 ~~all or part of the injury at issue, even if a claim has not been submitted to that trust at the~~
520 ~~time the complaint is filed."~~

521 **SECTION 7B-2.**

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

523 "CHAPTER 16

524 51-16-1.

525 (a) The General Assembly finds that:

- 526 (1) Over 120 employers have declared bankruptcy at least partially due to asbestos
527 related liability;
528 (2) Scores of trusts have been established in bankruptcy proceedings to form a
529 multibillion dollar compensation system for asbestos claimants outside of the civil courts,
530 and new asbestos trusts continue to be formed;
531 (3) Asbestos claimants typically seek compensation from solvent defendants in civil
532 actions and from trusts or claims facilities formed in asbestos bankruptcy proceedings;
533 (4) There is limited transparency between these two paths to recovery;
534 (5) An absence of transparency with respect to asbestos bankruptcy trust claims has
535 resulted in the suppression of evidence in asbestos actions;
536 (6) A federal bankruptcy court found that trust claim filings are being manipulated and
537 information withheld in order to inflate recoveries in asbestos actions;

538 (7) The lack of transparency regarding trust claims information harms Georgia
539 employers, their employees, their shareholders, and the communities in which they
540 operate. Companies that pay inflated settlements and awards in asbestos actions have
541 fewer resources to pay future claimants and invest in the state's economy; and

542 (8) Transparency with respect to asbestos trust claims and claims made in civil asbestos
543 actions promotes the integrity of asbestos actions and furthers recovery longevity to help
544 future plaintiffs.

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

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

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

550 51-16-2.

551 As used in this chapter, the term:

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

557 (2) 'Asbestos trust' means a government approved or court approved trust, qualified
558 settlement fund, compensation fund, or claims facility that is created as a result of an
559 administrative or legal action, a court approved bankruptcy, or under 11 U.S.C. Section
560 524(g), 11 U.S.C. Section 1121(a), or other applicable provision of law and is intended
561 to provide compensation to claimants arising out of, based on, or in any way related to
562 the health effects of exposure to asbestos.

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

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

572 51-16-3.

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

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

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

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

584 51-16-4.

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

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

593 51-16-5.

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

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

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

606 51-16-6.

607 If a plaintiff files an asbestos trust claim after obtaining a judgment in an asbestos action
608 and the asbestos trust was in existence at the time of such judgment, the trial court, upon
609 motion by a defendant, shall adjust the judgment by the amount of any subsequent asbestos
610 trust payments obtained by the plaintiff."

611 **SECTION 7B-3.**

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

613 "CHAPTER 17

614 51-17-1.

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

617 **PART VIII**

618 **SECTION 8-1.**

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

621 **SECTION 8-2.**

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

624 **SECTION 8-3.**

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