

2011 Tort Reform Package
Alabama Civil Justice Reform Committee

Alabama Small Business Protection Act (S.B. 184-Sen. Ben Brooks (R-Mobile)/H.B. 251-Rep. Wes Long (R-Guntersville): Product Liability suits provide a cause of action to consumers against manufacturers of defective products that cause injury or death. But often these suits join Alabama retailers, wholesalers, and distributors as defendants even though they did not participate in the manufacture or design of the product. This is done in some instances solely to allow the plaintiff to file suit in counties favorable to plaintiffs and keep an out-of-state manufacturer in an Alabama State court and out of federal court. These suits nevertheless cost Alabama businesses time and money while the true target of the suit is the manufacturer or design of the product. If, on the other hand, the suit is brought against a retailer or distributor because the manufacturer is unknown and the retailer or distributor is needed in order to provide discovery concerning the manufacturer's identity, the bill provides a mechanism to accomplish this in a reasonable manner so that the suit can then proceed against the appropriate manufacturer.

Post-Judgment Interest (S.B. 207- Senator Cam Ward (R-Alabaster)/H.B. 236-Rep. Greg Canfield (R-Vestavia Hills): Under the current Alabama Law, if a defendant loses a lawsuit and chooses to appeal, he must begin paying 12% post-judgment interest on the amount the court or jury awarded the plaintiff, creating a significant financial deterrent to appealing an unjust verdict. This bill reduces the rate to 7.5%. This helps prevent the cost of money from dramatically impacting a defendant's decision whether or not to appeal a verdict.

Wrongful Death Venue Reform (S.B. 212-Senator Clay Scofield (R-Guntersville)/H.B. 228-Representative Ron Johnson (R-Sylacauga): Prohibits "forum shopping" of wrongful death actions by requiring that a suit can be brought only in the country where the decedent could have filed suit. This will prevent the current practice of finding a personal representative in a plaintiff-favorable county solely for purposes of obtaining venue there due to the residency of the personal representative. For example, if a person lives in Shelby County and dies in Shelby County, the bill would require a wrongful death lawsuit to be filed in Shelby County. Under current law, the family of the deceased could retain a lawyer in Macon County to be the personal representative of the deceased and the suit could be filed in Macon County.

Expert Witness Reform (S.B. 187-Senator Ben Brooks (R-Mobile)/H.B. 239 Rep. Steve McMillan (R-Bay Minette): Requires application in Alabama of the federal expert witness rule enunciated in the Daubert standard to establish a framework for admitting scientific expert testimony in order to preclude the introduction of "junk science" into courtrooms. Junk science leads to mass tort cases built upon expert testimony that is unreliable and not verifiable by testing or appropriate scrutiny by the scientific community. These cases can swamp even large corporation. Junk science is the largest problems that needed addressing by expert witness reform in Alabama.