



The Capitol Report: February 19th, 2003

Provided by The Georgia Railroad Association

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Hearings underway on tort reform measure.

A Senate Judiciary subcommittee began hearings today on SB 133, an ambitious, bi-partisan tort reform bill introduced last week by Senate Majority Leader Tom Price. Senator Tim Golden (D-Valdosta) joined Senate President Pro Tempore Eric Johnson and Republicans Don Balfour and Bill Hamrick as primary co-sponsors of the bill.

SB 133 was introduced at the request of the Georgia Chamber of Commerce, Georgia Hospital Association, Medical Association of Georgia, and a coalition of other businesses, medical providers, and associations.

Key features of SB 133 include:

- 1)** A \$250,000 cap on non-economic damages in medical malpractice cases.
- 2)** A \$250,000 cap on punitive damages in product liability cases.
- 3)** Joint and Several Liability. The court should hold multiple defendants liable only for the percentage each is found liable. Currently, a defendant 10% responsible can be held responsible for all liability if the other defendant is unable to pay.
- 4)** Collateral Source. Current law does not allow the jury to even be informed that a plaintiff has received compensation for all or part of the monetary losses noted in a case. The judge should have the authority to adjust awards based on collateral source considerations.
- 5)** Comparative Negligence. The defendant and the plaintiff should share liability based on their individual responsibility. For example, if the defendant is only 75% liable, he should pay based on only 75% and not held responsible for the entire amount.
- 6)** Expert witness. To be recognized as an expert witness, the witness should be from the same field.
- 7)** Dismissal Rule. A plaintiff can bring suit against a defendant and then dismiss the case before the jury returns a verdict if the plaintiff thinks the case will lose. Current law allows the plaintiff to do this twice without penalty against the same defendant.
- 8)** Periodic payments. This would allow a company to make periodic payments to the plaintiff over a reasonable length of time rather than a lump sum payment.
- 9)** Legal rate of interest. The current rate is 12% for cases with awards on appeal. The rate should be indexed, such as "prime rate plus 1%" to be more closely aligned with changing economic conditions.
- 10)** Forum non-conveniens. Current law allows out of state plaintiffs to file cases in Georgia courts when the alleged harm, or cause of action, originated outside Georgia. It has been estimated that over 2,900 plaintiffs in the 3,000 asbestos related cases filed in Georgia originated outside the state. Forty-seven other states allow their judges to send the case back to the state where the cause of action originated. Georgia judges should be allowed to do the same, which would help unclog Georgia courts and save money for Georgia taxpayers.

GRA members may wish to contact their State Senators to express their views on SB 133, especially if their Senators are members of the Senate Judiciary Committee.

Members of the Judiciary Committee are:

- ▶ Senator Charlie Tanksley (Chairman) 404-656-0150
- ▶ Senator Dan Lee (Vice Chairman) 404-651-7738
- ▶ Senator Randy Hall (Secretary) 404-463-1363
- ▶ Senator David Adelman 404-463-1376
- ▶ Senator Chuck Clay 404-463-1318
- ▶ Senator Bill Hamrick 404-656-0036
- ▶ Senator Seth Harp 404-463-3931
- ▶ Senator Rene’ Kemp 404-656-0070
- ▶ Senator Kasim Reed 404-463-1379
- ▶ Senator Faye Smith 404-656-0044
- ▶ Senator Preston Smith 404-463-1369

At least one additional subcommittee hearing is expected on the measure next week. Plaintiffs lawyers and many of their colleagues in the State Bar are opposing the measure, which has near universal support in the business community.

Railway Sub Committee members named.

The members of the House Transportation Railway Subcommittee have been appointed and they are:

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| Rep. Johnny Floyd – Chairman | Rep. John Noel – Vice Chairman |
| Rep. Barry Fleming | Rep. Calvin Hill |
| Rep. Tom McCall | Rep. Ralph Twiggs—ex officio |
| Rep. Mickey Channell – ex officio | Rep. Hinson Mosley – ex officio |

2003 Associate Members

GRA welcomes the newest members to the Association, Darrin Figg with Hulcher Services, Barry Blount with Sumter Bank & Trust and Jerry Bozeman with Performance Railway Services.

Other associate members joining so far this year include:

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| Adams-Warnock Inc. | Atlas Railroad Construction |
| Bankhead Railway Services, Inc. | Century Group Inc. |
| Dixie Precast, Inc. | GE Capital Rail Services |
| Georgia Operation Lifesaver, Inc. | Georgia Ports Authority |
| Georgia Rail Consultants | Joseph Transportation |
| Koppers Industries | Lanier Steel Products |
| LB Foster Company | Neel-Schaffer, Inc. |
| Palmer & Cay Insurance | Railcar Management |
| Ralph Whitehead Associates | Tifton Terminal Railway Museum |
| Trinity Rail Group | Zurich North America |

Membership dues for the Georgia Railroad Association are due on March 31, 2003.

Don’t forget to check out the GRA website – www.georgiarailroad.org – the best source of information on Georgia railroads and railroad suppliers.