

Tennessee Legislation Service
Monday, May 4, 2009

CAMPAIGNS & LOBBYING

SB 0728 **CAMPAIGNS & LOBBYING: Campaign contributions by corporations.**
HB 0105* Allows representatives of any corporation doing business with the state to make campaign contributions up to the same contribution limits as individuals, LLCs, or partnerships on behalf of the corporation. (S: [Watson B.](#); H: [McCormick](#))

Senate Status: Referred to Senate State & Local Government.
House Status: Failed in House Elections Subcommittee 04/08/2009.

SB 1423* **CAMPAIGNS & LOBBYING: Allows trade and professional association to**
HB 1719 **fund PACs.**
Permits qualifying trade and professional associations to contribute money to association PACs as long as the association has been in existence in TN for at least 5 years and has regular dues-paying members. (S: [Stanley](#); H: [McCormick](#))

Senate Status: Referred to Senate State & Local Government.
House Status: Failed in House Elections Subcommittee 04/08/2009.

SB 1887* **CAMPAIGNS & LOBBYING: Amount individual can contribute to**
HB 2126 **candidates.**
Decreases the aggregate amount individual can contribute to candidates and all PACs to \$25,000 every two years. (S: [Kyle](#); H: [Turner M.](#))

Senate Status: Senate State & Local Government deferred to 05/05/2009.
House Status: Referred to House Elections Subcommittee.

COMMERCIAL LAW

SB 0812* **COMMERCIAL LAW: Uniform Debt Management Services Act.**
HB 1278 Enacts the "Uniform Debt Management Services Act." Requires debt management service providers to register with the state as such and continue to operate as a non-profit organization for tax purposes as long as the provider is in operation. Specifies certain registration requirements and procedures. Establishes maximum dollar amounts that such providers can charge for certain services. Requires such debt management providers to have insurance coverage of at least \$250,000. Requires such providers to maintain a web site with contact information and other information about the organization and its operations. (48 pp.) (S: [Overbey](#); H: [Stewart M.](#))

Amendment: Senate Commerce amendment 1, House Consumer & Employee Affairs Committee amendment 1 establishes additional limits for compensation rates for services should the creditor and the individual reach an agreement that settles the

debt for less than the principal amount. Makes technical changes within the bill. Requires the Director of Consumer Affairs in the Department of Commerce and Insurance to establish fees and penalties in amounts sufficient to make the operation of this program self-supporting. House Consumer & Employee Affairs Committee amendment 2 redefines the "administrator" as the Commissioner of the Department of Commerce and Insurance. Authorizes the administrator to promulgate rules to implement the bill. Senate Finance amendment 1 changes the administrator of the program to be the commissioner of the department of commerce and insurance. Permits the administrator to promulgate rules for the operation of the program.

Senate Status: Set for Senate Floor 05/04/2009.

House Status: Set for House Finance Budget Subcommittee 05/06/2009.

SB 0813* **COMMERCIAL LAW: Uniform Debt Management Services Act.**
HB 1279 Enacts the "Uniform Debt Management Services Act." Requires debt management service providers to register with the state as such and continue to operate as a non-profit organization for tax purposes as long as the provider is in operation. Specifies certain registration requirements and procedures. Establishes maximum dollar amounts that such providers can charge for certain services. Requires such debt management providers to have insurance coverage of at least \$250,000. Requires such providers to maintain a web site with contact information and other information about the organization and its operations. (S: [Overbey](#); H: [Stewart M.](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Referred to House Consumer Affairs Subcommittee.

SB 0847* **COMMERCIAL LAW: Claiming of damages under Consumer Protection Act.**
HB 1206 Requires an individual claiming damages under Consumer Protection Act to prove causal link between alleged act and person's damages. Requires such a claimant to show actual out-of-pocket loss based on actual market value of good or service received in order to recover damages. (S: [Black](#); H: [McCord](#))

Senate Status: Senate Commerce, Labor & Agriculture deferred to 05/26/2009.

House Status: House Consumer & Employee Affairs deferred to last calendar.

SB 2178 **COMMERCIAL LAW: Division of consumer protection - disclosure of info.**
HB 2118* Allows the division of consumer affairs to consult with the office of open records counsel in order to develop appropriate policies concerning access to records and disclosure of information under the Consumer Protection Act of 1977. (S: [Stanley](#); H: [Matheny](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Caption bill held on House clerk's desk.

ECONOMIC DEVELOPMENT

SB 0650 **ECONOMIC DEVELOPMENT: Surety bond guarantee program for small**
HB 0518* **businesses.**

Requires the department of economic and community development to create and administer funds to establish a surety bond guarantee program for small and emerging contractors designated as small businesses. Specifies that monies from the fund can be used to guarantee bid, payment and performance bonds on contracts up to \$1,000,000. Stipulates that any such deposited monies or interest must remain in the reserve until expended for purposes consistent with such program and cannot revert to the general fund. (S: [Finney L.](#); H: [Shaw](#))

Amendment: House Commerce amendment 1, Senate Commerce amendment 1 rewrites the bill. Requires a pool of funds to be created and administered for establishing a surety bond guarantee program for small and emerging contractors designated as small businesses as defined by the Tennessee Minority Owned, Woman Owned and Small Business Procurement and Contracting Act. Authorizes these funds to be expended to guarantee bid, payment, and performance bonds on contracts up to \$1,000,000 in value. Requires any considered funds be subject to annual appropriations in the general appropriations act.

Senate Status: Senate Commerce, Labor & Agriculture 04/21/2009 recommended with amendment 1. Sent to Senate Finance, Ways & Means.

House Status: Set for House Finance Budget Subcommittee 05/06/2009.

GOVERNMENT ORGANIZATION

SB 0155* **GOVERNMENT ORGANIZATION: TN Business Ombudsman Act.**
HB 1671 Establishes position of business ombudsman to be appointed by governor and confirmed by legislature. Specifies that the business ombudsman shall report directly to the governor. Also specifies scope of business ombudsman's responsibilities. (S: [Ketron](#); H: [Lynn](#))

Senate Status: Taken off notice in Senate Commerce, Labor & Agriculture 04/21/2009.

House Status: House Commerce Industrial Impact Subcommittee deferred to 2010.

SB 0223 **GOVERNMENT ORGANIZATION: Advisory board to commissioner and**
HB 0148* **governor.**

Creates an advisory board to commissioner and governor for the purpose of reviewing complaints against regulatory boards administered by department. Broadly captioned. (S: [Stanley](#); H: [Casada](#))

Senate Status: Referred to Senate Government Operations.

House Status: Caption bill held on House clerk's desk.

SB 1029 **GOVERNMENT ORGANIZATION: Sunset - advisory council on workers'**
HB 1064* **compensation.**

Sunset the advisory council on workers' compensation on June 30, 2010. (S:

[Johnson J.](#); H: [Lynn](#))

Amendment: Senate Government Operations amendment 1 extends the council for two years. House Government Operations amendment 1 extends the entity for two years. House Government Operations amendment 2 corrects a typographical error.

Senate Status: Set for Senate Government Operations Committee 05/06/2009.

House Status: House Government Operations 04/29/2009 recommended with amendment. Sent to House Calendar & Rules.

INSURANCE AUTOMOBILES

SB 1578* **INSURANCE AUTOMOBILES: Uninsured Motorist Stipulation of Benefits Act.**
HB 1664

Specifies that an operator of a motor vehicle who does not have a complying liability policy and is involved in an accident shall be deemed to have waived by any right to recover against a complying policyholder for noneconomic loss. Also specifies that such operator shall be able to recover, if at all, only for an award covering economic loss. Clarifies that operator deemed to have waived recovery pursuant to this subsection, in an action against a complying policyholder, shall have the reward reduced by an amount equal to the portion of the award representing compensation for noneconomic losses. In such cases, prohibits a jury from being informed of the waiver of any right to recovery. (S: [Ketrone](#); H: [Todd](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Civil Practice Subcommittee 04/21/2009.

SB 1816 **INSURANCE AUTOMOBILES: Liability insurance required on vehicles operated in state.**
HB 0705*

Requires liability insurance be maintained on all motor vehicles operated in TN, in accordance with the TN Financial Responsibility Law of 1977. Requires that insurance companies notify division of financial responsibility when coverage is terminated and specifies that any insurance company that fails to provide such notice shall remain liable to the extent of the original policy limits for any accident the policy would have covered during the period of validity of the certificate or until such notice is provided. Specifies that owner of motor vehicle has 30 days to obtain coverage again. (S: [Herron](#); H: [Turner L.](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: House Transportation Public Safety Subcommittee deferred to last calendar.

INSURANCE GENERAL

SB 0273* **INSURANCE GENERAL: Violations regarding the licensing of insurance providers.**
HB 0381

Requires the commissioner to investigate possible violations of the Tennessee

Insurance Producer Licensing Act of 2002 upon receipt of a written complaint from a member of the public or upon the commissioner's determination. Permits those accused of committing violations to access investigatory files relative to the case. Specifies that all proceedings be conducted by the administrative procedures division of the secretary of state's office. Requires any documents or other information provided by the insurance producer to be confidential and privileged. Mandates that the department provide a copy of any complaint against an insurance producer or company within 15 days of receipt of the complaint. Requires all investigations to take place within one year of the complaint being made. (S: [Ketron](#); H: [Sargent](#))

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 05/05/2009.

House Status: Set for House Commerce Industrial Impact Subcommittee 05/06/2009.

SB 0665 **INSURANCE GENERAL: Use of credit info to increase premiums.**
HB 0475* Prohibits using an individual's credit information in any manner to cancel or refuse a new risk or to increase premiums on homeowners and renters policies. (S: [Stewart E.](#); H: [Fraley](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Commerce Industrial Impact Subcommittee 04/01/2009.

SB 0923 **INSURANCE GENERAL: Changes to insurance coverage and spousal death.**
HB 0613* Prohibits an insurance company from increasing its premiums or canceling coverage on any insurance policy prior to the renewal or expiration date of the policy for the sole reason that the spouse of a policy holder has died. (S: [Stanley](#); H: [DeBerry J.](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Commerce Industrial Impact Subcommittee 04/08/2009.

SB 1180* **INSURANCE GENERAL: Assigned Risk Plan.**
HB 1438 Requires the commissioner of commerce and insurance to approve a reasonable plan or plans for the apportionment among companies licensed to issue automobile liability policies of applicants who are in good faith entitled to, but are unable to, procure such policies through ordinary methods. Authorizes such insurance companies to employ or retain persons as are necessary to handle claims and perform other duties of the plan or plans. (S: [Tracy](#); H: [Sargent](#))
Amendment: Senate amendment 1 rewrites the bill to create a nonprofit, unincorporated entity to be known as the Tennessee Automobile Insurance Plan. Requires all insurance companies licensed by the department of commerce and insurance to write direct automobile liability policies in the state to be members of the plan as a condition of the companies' authority to transact insurance in the state.

Requires the plan, in a manner fair to the insurers and equitable to their policy holders, to apportion among the member insurers those applicants for automobile liability policies who are in good faith entitled to, but are unable to, procure such policies through ordinary methods. Establishes an eleven member governing committee for the plan.

Senate Status: Senate 04/20/2009 passed with amendment 1.

House Status: House 04/27/2009 concurred in Senate amendment 1.

Other Status: Sent to governor 04/29/2009.

SB 1364* **INSURANCE GENERAL: Trade association agreements with pool**
HB 1993 **participants.**

Requires trade association which permits employers to enter into agreements to pool their liabilities for purposes of qualifying as self-insurers to have operating agreement -- or constitution or bylaws. Contains broad caption. (S: [Johnson J.](#); H: [Sargent](#))

Amendment: Senate amendment 1, House Consumer & Employee Affairs Committee amendment 1 clarifies that a qualified self-insured trust that has entered into a self-insurance loss portfolio transfer agreement approved by the commissioner of commerce and insurance with an insurer licensed in this state is not required to annually submit a statement of financial condition audited by an independent certified public accountant provided that the commissioner has granted a request filed by the self-insured trust for exemption from such annual submission of audited statement of financial condition.

Senate Status: Senate 04/20/2009 passed with amendment 1.

House Status: Set for House Floor 05/04/2009.

Other Status: Oversight Committee on Workers' Compensation 04/09/2009 approved subject to the approval of the Workers' Compensation Advisory Council.

SB 1489* **INSURANCE GENERAL: Setting of rates based on applicant's zip code.**
HB 2096 Prohibits an insurance company from setting rates based upon the zip code of the applicant's place of residence or employment. (S: [Ford O.](#); H: [Towns](#))

Senate Status: Taken off notice in Senate Commerce, Labor & Agriculture 03/17/2009.

House Status: House Commerce Industrial Impact Subcommittee deferred to 2010.

SB 2080 **INSURANCE GENERAL: False claims statutes revised.**
HB 1986* Revises existing false claims statutes. Requires a mechanism for establishing the primacy of certain insurance claims. (S: [Johnson J.](#); H: [Shipley](#))

Senate Status: Taken off notice in Senate Judiciary 04/23/2009.

House Status: Taken off notice in House Civil Practice Subcommittee 04/22/2009.

SB 2240 **INSURANCE GENERAL: Info concerning insurer's market conduct.**

HB 2304* Requires insurance companies to annually file with the commissioner of commerce and insurance a statement providing information concerning the company's market conduct for the year. Also requires the commissioner to promulgate rules prescribing manner in which such statements are to be filed. (Part of Administration Package.) (S: [Kyle](#); H: [Shepard](#))

Amendment: Senate Commerce amendment 1 deletes all language after the enacting clause. Requires insurance providers in the state to file an annual statement of market conduct with the Commissioner of Commerce and Insurance. Exempts companies that write accident and health insurance from the annual statement. Requires the Commissioner to promulgate rules to establish the deadline for submission and content of the annual statement. Authorizes the Commissioner to share the annual statements with the National Association of Insurance Commissioners (NAIC) as long as the recipient agrees to maintain confidentiality of the statement.

Senate Status: Senate Commerce, Labor & Agriculture 04/28/2009 recommended with amendment 1.

House Status: Set for House Commerce Committee 05/05/2009.

JUDICIARY

SB 0817* **JUDICIARY: Civil procedure and civil causes of action.**

HB 1149 Specifies that in certain civil actions in which the plaintiff makes a demand for monetary damages, the extent, amount and other relevant information concerning any liability insurance coverage the defendant has is discoverable under rules of civil procedure regardless of whether the information may or may not lead to the discovery of admissible evidence. Broadly captioned. (S: [Norris](#); H: [Kelsey](#))

Judicial Council comment: Judicial Council adopted and released to full committee with additional remark that this legislation appears to be in response to a recent Tennessee Supreme Court decision which referred the issue of the discoverability of insurance policies and insurance policy limits to the Advisory Commission on the Rules of Practice and Procedure ("Rules Commission") for consideration. It is the understanding of members of the council that this matter has been calendared for consideration by the Rules Commission. It is noted that the Federal Rules of Civil Procedure do allow for the discovery of insurance policies and policy limits.

Senate Status: Referred to Senate Judiciary.

House Status: Caption bill held on House clerk's desk.

Other Status: Tennessee Judicial Council reviewed 04/02/2009 with comment.

LABOR LAW

SB 1251 **LABOR LAW: Political activities by labor organizations.**

HB 0820* Specifies that a labor organization may only make expenditures for political activities if the labor organization establishes a segregated fund. Also specifies that

union dues are not to be used for political activities, transferred to the fund, or intermingled in any way with fund moneys. (S: [Bunch](#); H: [Campfield](#))

Senate Status: Senate Commerce, Labor & Agriculture deferred to 04/28/2009.

House Status: House Employee Affairs Subcommittee deferred to next year.

SB 1311 **LABOR LAW: Drug-free workplaces.**

HB 1355* Conforms Tennessee's law relative to drug-free workplace testing to U.S. department of transportation rules pertaining to workplace drug and alcohol testing. Removes references to "alcohol" in procedures for written policy statements regarding drug testing for employees and job applicants. (S: [Tracy](#); H: [Carr](#))

Senate Status: Senate Commerce, Labor & Agriculture deferred to 04/21/2009.

House Status: Taken off notice in House Employee Affairs Subcommittee 04/21/2009.

SB 2104 **LABOR LAW: Employment of subcontractors and independent contractors.**

HB 1997* Clarifies that "employee" includes contractors and subcontractors but not direct sellers relative to employment records. Allows the employer to report using a 1099 form in addition to a W-4. (S: [Stanley](#); H: [Moore](#))

Senate Status: Set for Senate General Welfare Committee 05/06/2009.

House Status: Set for House Calendar & Rules Committee 05/05/2009.

PUBLIC EMPLOYEES

SB 0297 **PUBLIC EMPLOYEES: Requirements for notaries.**

HB 0110* Requires new notaries and renewing notaries to complete five hours of continuing education at each renewal period by an approved notary public vendor or an approved notary instructor. Also requires notaries to pass a written exam. Requires notaries to maintain journal entries. Allows notaries to perform electronic notarizations. (S: [Johnson J.](#); H: [Casada](#))

Senate Status: Referred to Senate Judiciary.

House Status: Referred to House Judiciary Civil Practice Subcommittee.

TAXES BUSINESS

SB 2290 **TAXES BUSINESS: Revises excise tax exemption for FONCEs.**

HB 2264* Revises the excise tax exemption for certain family-owned non-corporate entities (FONCEs). Includes rents from residential or farm property but not commercial or industrial property and not including golf course playing hole improvements. (Part of Administration Package) (S: [Kyle](#); H: [Turner M.](#))

Senate Status: Senate Finance Tax Subcommittee 04/15/2009 recommended. Sent to Senate Finance.

House Status: Set for House Finance Budget Subcommittee 05/06/2009.

HB 0019* **TAXES BUSINESS: Privilege tax on professional athletes and entertainers.**
Imposes an occupational privilege tax on professional athletes and professional entertainers. Specifies that privilege tax will be \$400 annually per athlete or entertainer. Broadly captioned. (H: [Hardaway](#))

House Status: Referred to House Finance Budget Subcommittee.

TAXES GENERAL

SB 1421 **TAXES GENERAL: Rates for professional privilege tax.**
HB 0668* Revises amounts of professional privilege tax to be paid for persons licensed or registered after July 1, 2009, by basing amount upon years a person has been licensed or registered as a professional. (S: [Stewart E.](#); H: [Hackworth](#))

Senate Status: Referred to Senate Finance Tax Subcommittee.

House Status: Referred to House Finance Budget Subcommittee.

TORT LIABILITY

SB 0076* **TORT LIABILITY: Health care liability actions as medical malpractice reform.**
HB 0289
Changes "medical malpractice" to "health care liability action" and revises provisions of law relative to such action. Specifies that recoverable damages do not include expenses or charges that have been discounted or forgiven for any reason, including discounts arising from a relationship with a health insurer or other payor. Stipulates that when liability is admitted or established, the damages awarded may include noneconomic losses, provided such damages do not exceed a total of \$250,000 against all health care practitioners and/or facilities who are defendants. Limits the aggregate amount of damages recovered by a plaintiff for such losses to \$500,000. Allows any party involved in such a case to enter a judgment ordering that damages be paid in whole or in part by periodic payments rather than by a lump sum payment if the award equals or exceeds \$75,000. Requires judgment debtors in such cases to post security adequate to assure full payment of such damages awarded by the judgment when not adequately insured. Makes debtors who become delinquent in paying liable for further damages including court and attorney costs. Establishes provision for transfer of payments upon death of creditor. Changes limitations for reasonable attorneys' fees from 33 1/3 percent of total damages to the following: 40 percent of the first \$50,000; 33 1/3 percent of the next \$50,000; 25 percent of the next \$500,000; and 15 percent of any amount by which the recovery exceeds \$600,000. Requires expert witnesses to have been practicing the same specialty as the defendant for the past year. Prohibits an action against an attorney for legal malpractice from arising based solely on the fact that the damages awarded in the underlying health care liability action exceeded the amount sought in the ad damnum of the complaint filed in such underlying action. Specifies that the plaintiff

may not attempt to seek recovery on this difference from the attorney unless the attorney's conduct in the underlying action constituted fraud or willful misconduct. Requires a plaintiff in any action for damages alleging professional negligence against a health care provider to file a HIPAA-compliant medical authorization form when filing the complaint. Authorizes the release of certain health care information to attorneys in such cases. (S: [Stanley](#); H: [Kelsey](#))

Senate Status: Referred to Senate Judiciary.

House Status: Referred to House Judiciary Civil Practice Subcommittee.

SB 1105 **TORT LIABILITY: Increases governmental tort liability limits.**
HB 0513* Increases governmental tort liability limits for actions arising on or after July 1, 2007, but before July 1, 2009. (S: [Stewart E.](#); H: [Matheny](#))

Senate Status: Referred to Senate Judiciary.

House Status: Referred to House Judiciary Civil Practice Subcommittee.

TRANSPORTATION VEHICLES

SB 0300 **TRANSPORTATION VEHICLES: Exchange of insurance info required in an accident.**
HB 0282*

Requires, rather than allows, a motor vehicle officer investigating scene of accident to have parties exchange insurance information. (S: [Johnson J.](#); H: [Casada](#))

Senate Status: Taken off notice in Senate Transportation 04/14/2009.

House Status: Taken off notice in House Transportation Public Safety Subcommittee 04/07/2009.

SB 0597 **TRANSPORTATION VEHICLES: Liability insurance for motor vehicles.**
HB 0669* Requires that all vehicles registered or driven on the state's highways be compliant with the Tennessee Financial Responsibility Law of 1977. Requires that an application for registration or renewal be accompanied by evidence that the requirements of the law have been met. Broadly captioned. (S: [Burchett](#); H: [Hackworth](#))

Amendment: House Transportation amendment 1 makes the bill. Requires the proof of insurance brought to court in order to void a prior ticket issued for driving without insurance to have been procured before the incident in question rather than just before the court date.

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Set for House Finance, Ways & Means Committee 05/05/2009.

SB 0793* **TRANSPORTATION VEHICLES: Recovery against a motor vehicle dealer's surety bond.**
HB 0965

Creates following additional grounds for recovery against a motor vehicle dealer's required minimum \$50,000 surety bond by persons who suffer loss: dealer's failure

to pay off debt on a trade-in motor vehicle; dealer's failure to pay for a motor vehicle when purchasing from a dealer for resale. (S: [Overbey](#); H: [McCord](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Referred to House Commerce Small Business Subcommittee.

SB 0797
HB 0749* **TRANSPORTATION VEHICLES: Financial liability for negligent motor vehicle operations.**

Declares that damage determinations made by the commissioner of safety are not admissible in any civil court proceeding for negligent operation of motor vehicle and raises the minimum amount of financial security required to \$5,000. (S: [Overbey](#); H: [Montgomery](#))

Senate Status: Referred to Senate Judiciary.

House Status: Caption bill held on House clerk's desk.

SB 1401*
HB 1466 **TRANSPORTATION VEHICLES: Vehicle liability insurance proof for vehicle registration.**

Requires proof of valid motor vehicle liability insurance before issuance of motor vehicle registration or renewal of registration. Also requires proof of valid driver license and motor vehicle liability insurance before issuance of temporary permit. (S: [Jackson](#); H: [Shepard](#))

Senate Status: Referred to Senate Transportation.

House Status: Referred to House Transportation Public Safety Subcommittee.

SB 1686*
HB 2052 **TRANSPORTATION VEHICLES: Proof of valid driver license before registration.**

Establishes that an individual applying for registration or renewal of registration for a motor vehicle shall not be issued registration plates unless the applicant possesses a valid driver license at the time such application is made. Requires a temporary permit to be issued only to a person who possesses a valid driver license at the time of the application for registration. (S: [Ketron](#); H: [Rowland](#))

Amendment: House Transportation Public Safety Subcommittee amendment 1, as amended, rewrites the bill. Applies the bill only to counties that have wheel tax enforcement officers. Makes liable for costs any person who should have been paying the wheel tax who has not been doing so for the time period they did not pay. Creates a Class B misdemeanor punishable by a fine of up to \$500 for anyone who knowingly issues a registration to a person living in another county in order to avoid the wheel tax. Corrects numbering differences in the printed bill (technical correction).

Senate Status: Senate Transportation deferred to 04/14/2009.

House Status: Set for House Transportation Committee 05/05/2009.

SB 1964* **TRANSPORTATION VEHICLES: Failure to wear seat belt - admissible as**

HB 1855 **evidence.**
Makes failure to wear a seat belt, citation for failure, or warrant for arrest for failure, admissible into evidence in a civil action. (S: [Black](#); H: [Montgomery](#))

Senate Status: Referred to Senate Judiciary.

House Status: Taken off notice in House Civil Practice Subcommittee 03/10/2009.

SB 2150 **TRANSPORTATION VEHICLES: Proof of compliance with financial**
HB 2037* **responsibility laws.**

Requires law enforcement officers to obtain proof of compliance with financial responsibility laws upon charging a person with any motor vehicle violation, rather than only with moving violations. (S: [Stewart E.](#); H: [Sargent](#))

Senate Status: Senate Judiciary 04/29/2009 recommended. Sent to Senate Finance, Ways & Means.

House Status: Set for House Finance Budget Subcommittee 05/06/2009.

WORKERS COMPENSATION

SB 0487* **WORKERS COMPENSATION: Penalties abated and voided after one year.**

HB 1564 Allows workers' compensation penalties to be abated and then voided after one year, rather than two years, if employer obtains and maintains workers' compensation coverage. (S: [Burchett](#); H: [West](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Employee Affairs Subcommittee 04/28/2009.

Other Status: Oversight Committee on Workers' Compensation 04/09/2009 adopted comment.

SB 0545* **WORKERS COMPENSATION: Injuries occurring at employee's residence.**

HB 0900 Limits definition of "injury" when it occurs at an employee's residence to only include injuries that occur while the employee is engaged in a defined work activity within an established immediate work area. (S: [Norris](#); H: [Casada](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Employee Affairs Subcommittee 04/28/2009.

Other Status: Oversight Committee on Workers' Compensation 04/09/2009 taken off notice.

SB 0661 **WORKERS COMPENSATION: Recreational activities not covered by**
HB 0256* **workers' comp.**

Provides that injuries incurred during employee's recreational activities are not compensable unless: (1) Employer has expressly required participation or made activity part of services of employee; or (2) Employer derives substantial direct

benefit from activity beyond intangible value of improvement in employee health and morale. (S: [Stanley](#); H: [Casada](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Employee Affairs Subcommittee 04/28/2009.

Other Status: Oversight Committee on Workers' Compensation 04/09/2009 taken off notice.

SB 1500 **WORKERS COMPENSATION: Injuries that occur during recreational**
HB 1229* **activities.**

Excludes from workers' compensation coverage any injuries that occur during recreational activities, that are not required by the employer, and do not directly benefit the employer. (S: [McNally](#); H: [Fitzhugh](#))

Senate Status: Taken off notice in Senate Commerce, Labor & Agriculture 04/15/2009.

House Status: Taken off notice in House Employee Affairs Subcommittee 04/28/2009.

Other Status: Taken off notice in Oversight Committee on Workers' Compensation 04/09/2009.

SB 1524* **WORKERS COMPENSATION: Alcohol and drug use - cause of injury or**
HB 1604 **death.**

Changes standard for denying workers' compensation benefits in cases involving alcohol and drug use from such use being a proximate cause of the injury or death to such use being a contributing cause of such injury or death. Removes the provision that does not allow compensation for an injury or death due to an employee's willful failure to use a safety appliance or perform a duty required by law. (S: [Burchett](#); H: [Brooks, Harry](#))

Amendment: Senate Commerce amendment 1 reinstates current law that no compensation is allowed for an injury or death due to the employee's willful failure or refusal to use a safety appliance or perform a duty required by law. Provides that if the injured worker refuses to submit to a drug test, it will be presumed that the contributing -- rather than proximate -- cause of the injury was the influence of drugs.

Senate Status: Senate Commerce, Labor & Agriculture 04/15/2009 recommended with amendment. Sent to Senate Finance, Ways & Means.

House Status: House Employee Affairs Subcommittee deferred to 2010.

Other Status: Oversight Committee on Workers' Compensation 04/09/2009 released with negative recommendation.

SB 1574* **WORKERS COMPENSATION: Civil penalty assessed to insurance**
HB 1472 **companies.**

Decreases the amount of any civil penalty the commissioner of commerce and

insurance may assess against insurance companies for failure to submit modification factors or rates from \$2,000 per incident to \$1,000 per incident. Broadly captioned. (S: [Norris](#); H: [Casada](#))

Amendment: Senate amendment 1 rewrites bill as follows: (1) provides that there is no implied covenant of confidentiality, prohibition against ex parte communications or privacy of medical records in the custody of authorized treating physicians with respect to case managers, employers, or insurance companies, or their attorneys, if such persons comply with the provisions of the bill; (2) permits the employer, other than an attorney representing the employer, to communicate orally with an authorized medical provider and requires the employer representative to provide a written summary of the opinions or statements of the medical providers to the employee or the employee's attorney within seven days of a request by the employee or his or her attorney; (3) permits any form of written communication by an employer to or with an authorized medical provider - other than a request for records - provided the employer sends the employee a copy of the written communication which was sent to the provider and copies of any material or information provided to the medical provider, and gives the employee copies of any response from the medical provider; (4) permits the attorney representing the employer to communicate orally with an authorized medical provider if the employee or his or her attorney is provided at least seven days advance notice of the intended oral communication and the employer representative provides a written summary of all opinions and statements of the medical provider to the employee/attorney within seven days of the oral communication; (5) permits an employee or an employer to obtain medical information, medical records or medical reports from or to communicate in writing or in person with any authorized medical provider provided the employee executes and provides the appropriate written authorization; and (6) provides a medical provider with exemption from liability for providing medical information, medical records or medical reports if the provisions of the bill are followed.

Senate Status: Senate 04/27/2009 passed with amendment 1.

House Status: Set for House Employee Affairs Subcommittee 05/05/2009.

Other Status: Oversight Committee on Workers' Compensation 04/09/2009 released with positive recommendation.

SB 1767
HB 0981*

WORKERS COMPENSATION: Maximum obligation for workers' compensation claim.

Increases to \$250,000 from \$100,000 the maximum amount the TN insurance guaranty association is required to pay a claimant for claim if their insurer has been determined insolvent. Excludes workers' compensation claims. (S: [Herron](#); H: [McDaniel](#))

Amendment: House amendment 1 rewrites the bill. Changes from \$100,000 to \$250,000, in the present value of annuity benefits, including net cash surrender and net cash withdrawal values, the maximum amount of benefits for which the TN insurance guaranty association may become liable.

Senate Status: Senate passed 04/27/2009.

House Status: House 04/20/2009 passed with amendment 1.

Other Status: Sent to governor 04/29/2009.

SB 1828 **WORKERS COMPENSATION: Penalties for noncompliance with insurance**
HB 1408* **requirements.**

Rewrites provisions on noncompliance with insurance requirements. Lists powers granted to department of labor and workplace development, including issuing subpoenas and stop-work orders, and assessing penalties. Broadly captioned. (S: [Kyle](#); H: [Ferguson](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Employee Affairs Subcommittee 04/28/2009.

Other Status: Taken off notice in Oversight Committee on Workers' Compensation 04/09/2009.

SB 1909* **WORKERS COMPENSATION: Additional injuries that are currently not**
HB 1500 **covered.**

Provides that no compensation will be allowed for an injury or death due to the employee's voluntary participation in recreational, social, athletic, or exercise activities (including, but not limited to, athletic events, competitions, parties, picnics, exercise programs) whether or not the employer pays some or all of the costs thereof unless: (1) Participation was expressly or impliedly required by the employer; (2) Participation produced a direct benefit to the employer beyond improvement in employee health and morale; (3) Participation was during employee's work hours and was part of the employee's work-related duties; or (4) The injury occurred due to an unsafe condition during voluntary participation using facilities designated by, furnished by or maintained by the employer on or off the employer's premises and the employer had actual knowledge of the unsafe condition and failed to curtail the activity or program or cure the unsafe condition. (S: [Norris](#); H: [Fitzhugh](#))

Senate Status: Set for Senate Consent 2 05/04/2009.

House Status: Set for House Consumer & Employee Affairs Committee 05/05/2009.

Other Status: Oversight Committee on Workers' Compensation 04/09/2009 released with positive recommendation.

SB 2055 **WORKERS COMPENSATION: Effective date for Chapter 1041 of Public**
HB 1899* **Acts of 2008.**

Changes from December 31, 2009 to July 2, 2012 the effective date of 2008 PC 1041 relative to the liability of principal, intermediate contractor or subcontractor. (S: [Barnes](#); H: [Pitts](#))

Amendment: House Employee Affairs Subcommittee amendment 1 changes the

effective date of PC 1041 from 2012 to 2010.

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 05/05/2009.

House Status: Set for House Employee Affairs Subcommittee 05/05/2009.

Other Status: Set for Workers' Compensation Advisory Council 05/04/2009.

SB 2081 **WORKERS COMPENSATION: Injury after conclusion of claim but during**
HB 1964* **treatment.**

Provides that an injury to an employee following the conclusion of a workers' compensation claim is not considered an accident arising out of and in the course of employment with the original employer even though medical benefits remained open and the employee was injured as a result of an accident or incident occurring during authorized medical treatment or travel to or from any authorized medical treatment. Broadly captioned. (S: [Johnson J.](#); H: [Sargent](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Employee Affairs Subcommittee 04/28/2009.

Other Status: Taken off notice in Oversight Committee on Workers' Compensation 04/09/2009.

SB 2231 **WORKERS COMPENSATION: Illegal immigrants - workers' compensation**
HB 2102* **benefits.**

Provides that an employer who did not knowingly hire an illegal immigrant is not required to provide temporary partial disability benefits, permanent partial disability, permanent total disability benefits, or death benefits. Creates a presumption that the employer did not knowingly hire an illegal immigrant when the employer can show, by a preponderance of the evidence, that the employer in good faith complied with the employment eligibility and identity verification requirements of federal law when the employee was hired. Contains broad caption. (S: [Southerland](#); H: [Sargent](#))

Senate Status: Taken off notice in Senate Commerce, Labor & Agriculture 04/15/2009.

House Status: Withdrawn in House 04/13/2009.

Other Status: Taken off notice in Oversight Committee on Workers' Compensation 04/09/2009.

SB 2292 **WORKERS COMPENSATION: Venue for certain workers' compensation**
HB 2253* **claims.**

Following the exhaustion of the benefit review conference process, sets venue as follows: (1) If the employee resides in Tennessee, in the circuit or chancery court of the county in which the employee resides; (2) If the employee resides outside Tennessee, in the circuit or chancery court of the county in which the alleged injury occurred; (3) If the employee resides outside Tennessee and the injury occurred

outside Tennessee, in the circuit court or chancery court of any county where the employer maintains an office; (4) If not determined by (1), (2) or (3), in the circuit or chancery court of Davidson County; (5) If the employer is a county or municipal corporation that has accepted the provisions of the Workers' Compensation Law, in the circuit or chancery court of the county in which the governmental entity is located. (Part of Administration Package.) (S: [Kyle](#); H: [Turner M.](#))

Senate Status: Referred to Senate Commerce, Labor & Agriculture.

House Status: Taken off notice in House Employee Affairs Subcommittee
04/28/2009.

Other Status: Taken off notice in Oversight Committee on Workers' Compensation
04/09/2009.

SB 2299

HB 2268*

WORKERS COMPENSATION: Guaranty fund for employers that self-insure.

(1) Authorizes the commissioner of commerce and insurance to establish a guaranty fund for self-insuring employers. Creates the Tennessee Self-Insurers Guaranty Fund Association to conduct an accounting to determine the amount of money each self-insuring employer should contribute to the fund. Earmarks moneys in the fund to compensate persons entitled to receive workers' compensation benefits from a Tennessee self-insurer which is unable or fails to meet its workers' compensation benefits obligations and to defray expenses of the fund. Provides that if the fund becomes inadequate to make payments to all valid claimants, the Association will assess the participating employers in an amount necessary to pay the outstanding claims and expenses and to replenish the fund. (2) As an alternative to each private self-insuring employer securing its own incurred liabilities, permits the commissioner to provide rules for an alternative collateral fund mechanism whereby self-insured employers may collectively secure their aggregate incurred liabilities. (S: [Kyle](#); H: [Moore](#))

Amendment: Senate amendment 1 rewrites the bill to delete all statutorily permitted types of security to be posted by self-insured employer for its workers' compensation liability and grants full authority to the commissioner of commerce and insurance to determine the types of security acceptable for self-insured employers by rulemaking authority. Requires that a self-insured employer's losses and adequacy of reserves be certified "annually" rather than "biennially." House Employee Affairs subcommittee amendment 1 changes the bi-annual actuarial report to an annually due actuarial report.

Senate Status: Senate 04/20/2009 passed with amendment 1.

House Status: Set for House Consumer & Employee Affairs Committee
05/05/2009.

Other Status: Oversight Committee on Workers' Compensation 04/09/2009
approved subject to the approval of the Workers' Compensation Advisory Council.