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BIDEK-2010bills

Tuesday, February 9, 2010

COMMERCIAL LAW

SB 3814 Business organizations: domestic or foreign LLC, LLP, or LP.

Johnson
J.
HB
3644*
Sargent

Authorizes anyone to apply to the secretary of state to furnish a certificate of existence for a domestic LLC, LLP, or LP or a certificate of authorization for a foreign LLC, LLP, or LP. Specifies the requirements of the certificate of existence or authorization.

TCA Secs. 48-00-0000; 48-247-0100; 48-249-0100; 61-00-0000; 61-01-1000; 61-01-1200; 61-02-1200

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 02/09/2010.

House Status: Referred to House Judiciary Civil Practice Subcommittee.

SB 3815
Johnson
J.
HB
3645*
Sargent

Distinguishable names for corporations or partnerships.

Creates an additional exception to the general rule that the name of a corporation or limited partnership must be distinguishable from the name of another business organization authorized to do business in this state by having consent in writing or a form satisfactory to the secretary of state.

TCA Secs. 48-00-0000; 48-14-0101; 61-00-0000; 61-02-0102; 62-02-0904

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 02/09/2010.

House Status: Referred to House Judiciary Civil Practice Subcommittee.

SB 3817 **Business organizations: filing requirements and procedure.**
 Johnson Specifies when the secretary of state must file a corporation's
 J. articles of dissolution or revocation of dissolution, a foreign
 HB corporation's certificate of authority, an LLC's articles of
 3643* termination or articles of termination of existence, a foreign LLC's
 Sargent certificate of authority, an LP's certificate of cancellation, and a
 foreign LP's certificate of cancellation of registration. Revises the
 way a foreign corporation or LLC may reinstate a certificate of
 authority after the certificate has been administratively revoked.
 Broadly captioned. (12 pp.)

TCA Secs. 48-00-0000; 48-24-0103; 48-24-0104; 48-25-0103;
 48-64-0104; 48-64-0105; 48-65-0303; 48-245-0201; 48-245-
 0303; 48-245-0305; 48-245-0503; 48-245-0601; 48-245-0301;
 48-246-0401; 48-246-0503; 48-246-0505; 48-249-0602; 48-249-
 0606; 48-249-0608; 48-249-0612; 48-249-0904; 48-249-0907;
 48-249-0910; 48-249-0912; 61-00-0000; 61-00-1001; 61-02-
 0203; 61-02-0906

Senate Status: Set for Senate Commerce, Labor & Agriculture
 Committee 02/09/2010.

House Status: Referred to House Judiciary Civil Practice
 Subcommittee.

CORRECTIONS

SB 2508 **Sale of TRICOR surplus property equipment and materials.**
 Tracy Authorizes TRICOR to sell, as surplus, property equipment and
 HB raw materials no longer usable by TRICOR to businesses,
 2485* government, non-profit organizations, or by auction to the public.
 Harmon

TCA Sec. 41-22-0400

Senate Status: Referred to Senate State & Local Government.

House Status: Referred to House State & Local Government.

CRIMINAL LAW

SB 0275 **Law enforcement shooting ranges.** Expands current law by
 Ketron requiring law enforcement agencies to open their shooting ranges
 HB for use by persons who have retired from duty as full-time,
 0234* commissioned law enforcement officers when not being used by
 Todd law enforcement personnel.

Amendment: House amendment 1 makes the bill. Authorizes
 three methods for retired law enforcement officers to follow to
 meet the annual requirements to carry a firearm. Requires the

Tennessee Peace Officers Standards and Training Commission (POST) to maintain a list of approved certified firearms instructors and to issue certification that the retired officer has met the standards required to carry a firearm. House amendment 2 removes the fiscal note by authorizing the Tennessee POST commission to charge a fee for issuing a certification under the provisions of this bill.

TCA Sec. 38-08-0116

Senate Status: Senate passed 06/03/2009.

House Status: House 06/01/2009 passed with amendments 1 & 2.

Other Status: Enacted as Public Chapter 0430 (effective 06/12/2009).

SB
2528*
Faulk
HB 2881
Rich

Handgun carry permits: searchable database. Enables the department of safety to distribute materials related to handgun permits electronically and searchable by: law enforcement, child support enforcement, court orders, and certain written requests. Enables the department to display a list of revoked handgun permits.

TCA Secs. 10-07-0500; 10-07-0504; 39-17-1300

Senate Status: Referred to Senate Judiciary.

House Status: Referred to House Judiciary Criminal Practice Subcommittee.

EDUCATION

SB 3482
Tate
HB
2441*
Hardaway

Energy conservation methods as required curriculum. Requires public school curriculum for grades K-12 to include content on energy conservation, including instruction on how to conduct an energy audit in the student's home.

TCA Sec. 49-06-1000

Senate Status: Referred to Senate Education.

House Status: Referred to House Education K-12 Subcommittee.

GOVERNMENT CONTRACTS

SB 3592
Ketron
HB

Bids required on insurance for commercial vehicles. Allows the board of claims to establish incentive programs for state departments, agencies, and institutions to reduce liabilities to the

3640*
Todd risk management fund. Requires any state department, agency, or institution to procure bids for obtaining appropriate insurance on a commercial grade vehicle prior to acquiring the vehicle.

TCA Secs. 09-08-0108; 12-03-0908

Senate Status: Referred to Senate State & Local Government.

House Status: Referred to House State & Local Government.

SB 3593
Ketron
HB
3633*
Todd **State contract bids: commercial vehicles & public buildings.** Requires any state departments or institutions to receive bids for appropriate vehicle insurance on a before acquiring a commercial grade vehicle. Alters public building insurance bidding requirements.

TCA Secs. 09-08-0108; 12-03-0908

Senate Status: Referred to Senate State & Local Government.

House Status: Referred to House State & Local Government.

SB 3598
Ketron
HB
3353*
Curtiss **Establishes procurement commission.** Creates a procurement commission, procurement office, and an advisory council on state procurement that will regulate procurement, grants, contracts, a bidding system, and the disposal of goods and services by the state. (20 pp.)

TCA Secs. 04-00-0000; 12-00-0000

Senate Status: Referred to Senate State & Local Government.

House Status: Referred to House State & Local Government.

House Government Operations will review if recommended.

GOVERNMENT ORGANIZATION

SB
3844*
Kyle
HB 3827
Turner
M. **Commission on firefighting standards and education: removal.** Removes the commission on firefighting personnel standards and education from the division of regulatory boards' jurisdiction. Removes the requirement that the commission must operate only on funds allocated by the general assembly.

TCA Secs. 04-13-1304; 04-24-0000; 04-24-0109

Senate Status: Referred to Senate State & Local Government.

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

HEALTH CARE

SB
2537*
Overbey

Methadone treatment: urges help for methadone oversight.
Urges the Mental Health and Developmental Disabilities Department to help the legislature determine the future of methadone oversight and licensing.

TCA Secs. 68-11-0000; 68-11-1600

Senate Status: Referred to Senate General Welfare.

INSURANCE AUTOMOBILES

SB
2397*
Watson
B.
HB 2841
Floyd

Ownership of wrecked or damaged passenger motor vehicles. Requires an insurance company, who has determined an insured's wrecked or damaged vehicle is nonrepairable, to notify the insured in writing of the insured's opportunity to choose whether or not to retain the damaged vehicle. Requires the insurance company, who does not assume ownership of such vehicle, to withhold payment of the claim until the insured applies for a salvage title or nonrepairable vehicle certificate.

TCA Secs. 55-03-0200; 55-03-0212

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

House Status: House companion bill introduced. (H: Floyd)

SB
2399*
Watson
B.
HB 2838
Floyd

Requiring uninsured motorist coverage for all auto policies. Requires insured motorists to include in their insurance policies to have uninsured motorist coverage.

TCA Secs. 56-07-1200; 56-07-1201

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

House Status: Set for House Commerce Industrial Impact Subcommittee 02/10/2010.

SB
2583*
Tracy
HB 3716
Carr

Liability insurance required on all motor vehicles. Requires liability insurance be maintained on all motor vehicles operated in Tennessee. Requires insurance companies to notify the division of financial responsibility when coverage on a vehicle is terminated. Specifies that a vehicle owner who loses coverage has 30 days to obtain coverage again.

TCA Secs. 55-04-0000; 55-04-0100; 55-12-0000

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 02/09/2010.

House Status: Referred to House Transportation Public Safety Subcommittee.

SB
2784*
Burchett
HB 3076
Haynes
R.

Liability insurance required on all motor vehicles. Requires that all vehicle owners maintain liability insurance or vehicle registration will terminate within 30 days on non-compliance. Mandates that insurance companies electronically notify the department of revenue if a resident's insurance is acquired, sold, or terminated.

TCA Secs. 55-00-0000; 55-04-0100; 55-04-0118; 55-12-0100; 56-00-0000

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

House Status: Referred to House Transportation Public Safety Subcommittee.

SB 3278
Burchett
HB
3357*
Hackworth

Proof of insurance required before registration of vehicle. Requires proof of insurance before registration or renewal of registration for a motor vehicle will be issued.

TCA Secs. 55-00-0000; 56-00-0000; 55-04-0100; 55-12-0140

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

House Status: Referred to House Transportation Public Safety Subcommittee.

SB 3289
Burchett
HB
3178*
Turner
M.

Filing of claims in auto accident. Prohibits any person in an automobile accident with an insured from filing a claim against the insured's liability insurance if that person is not at fault.

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 02/09/2010.

House Status: Introduced 1/28/2010

SB 3455
Yager
HB
3488*
Ferguson

Motor vehicle repair claims. Requires insurer to inform claimant that they have the right to choose a repair facility for a damaged vehicle. Prohibits insurer from requiring insured or third-party claimant to use specific business for vehicle repairs. Requires appraisals to clearly state to the customer that they have a right to choose the repair facility to repair the damaged vehicle.

TCA Secs. 56-00-0000; 56-08-0100

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

House Status: Introduced 2/1/2010

INSURANCE GENERAL

SB
0273*
Ketron
HB 0381
Sargent

Violations regarding the licensing of insurance providers.

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.

Amendment: House Commerce Industrial Impact Subcommittee amendment 1, as amended, rewrites the bill. Requires the department to notify a producer or business entity producer within 30 days of issuance of an inquisitorial order or receipt of written complaint. Sets three-year time limit within which the department must complete its investigation. Requires the commissioner to notify any producer who is being investigated along with the nature of the reason for the investigation. Prohibits any action being taken against a producer for alleged misconduct or wrongful action occurring more than 10 years prior to investigation initiation or receipt of complaint. Senate Commerce, Labor and Agriculture committee amendment 1 rewrites the bill. Revises the confidentiality provisions of the laws relating to notification of termination. Such information is not subject to the open records or public inspection laws, subpoena or discovery and is not admissible as evidence in any private civil action. Allows producers under investigation to discover and obtain from the commissioner a copy of any notice or other information submitted by an insurer regarding the termination of the producer and the reason for such termination. Revises provisions relating to investigations by the commissioner. Provides that any investigatory action be reasonable in scope and relevant to administration of the law. Requires that upon issuance of an order by the commissioner initiating an investigation or upon receipt of a complaint against a producer or insurer, the department must provide the insurer or

producer a copy of the complaint or order within 15 days of issuance or receipt. Requires the department notify the insurer or producer that it is initiating an investigation and all charges being brought prior to seeking a statement or records. Allows the insurer or producer to obtain a copy of the order or complaint regarding charges being investigated, a transcript of testimony and a list of the names and addresses of all persons giving testimony. Requires all investigations be completed within two years of receipt of the initial complaint, the initiation of the investigation or the effective date of the bill if the investigation was commenced prior to the effective date. Requires that investigations conducted by the commissioner shall be reasonable in scope and relevant to administration of the law. Allows producers or insurers under investigation to have the right to petition the chancery court of Davidson county to modify, quash, or take any other appropriate action relative to subpoena issued by the commissioner.

TCA Secs. 56-06-0000; 56-06-0100; 56-06-0120; 56-08-0000; 56-08-0118

Senate Status: Re-referred to Senate Calendar Committee 01/12/2010.

House Status: Set for House Commerce Committee 02/09/2010.

SB 2794
Gresham
HB
2508*
McDaniel

Use of consumer's credit info for personal insurance.

Prohibits insurance companies underwriting personal insurance from taking an adverse action against a consumer with an existing policy solely based on a change in the consumer's credit information.

TCA Secs. 56-05-0400; 56-05-0402

Senate Status: Withdrawn in Senate 02/01/2010.

House Status: Withdrawn in House 01/28/2010.

SB 3557
Ketron
HB
3349*
Curtiss

Sale of certain insurance products. Requires the commissioner of the department of commerce and insurance to evaluate insurance products being sold and the training and education from insurance producers provided to determine which products have a sufficient amount of education and training in order to develop a guideline for insurance producers concerning which products may be sold based on the education and training provided. Broadly captioned.

TCA Secs. 45-00-0000; 48-00-0000; 56-00-0000; 56-01-0200

Senate Status: Referred to Senate State & Local Government.

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

SB
3843*
Kyle
HB 3832
Turner
M.

Insurer's license is revoked or suspended: specifications.

Clarifies that an insurer whose license is revoked or suspended is an authorized insurer for policies written while the company was properly licensed. Clarifies that an insurer whose license is revoked or suspended is not an unauthorized alien or foreign insurer for lawsuits concerning issues arisen from policies issued when the insurer was properly licensed.

TCA Secs. 56-00-0000; 56-01-0416; 56-02-0607; 56-01-0308

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

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

SB
3863*
Kyle
HB 3830
Turner
M.

Interstate insurance product regulation commission. Deletes language that requires the interstate insurance product regulation commission to terminate on June 30, 2009.

TCA Secs. 56-58-0100; 56-58-0103

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

House Status: Referred to House Commerce.

SB
3906*
Kyle
HB 3782
Turner
M.

Property and casualty insurance: actuarial opinion. Requires property and casualty insurance companies doing business in this state to file a "statement of actuarial opinion" written by the company's appointed actuary that cover's the company's activity from the prior calendar year. Requires the opinion to be confidential, unless certain exceptions apply.

TCA Secs. 56-01-0400; 56-01-0500; 56-01-0501

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

House Status: Referred to House Government Operations for review.

INSURANCE HEALTH

SB 2836
Southerland
HB
2904*

Coverage through health group cooperative - small

employers. Decreases to three from five years the length of time a small employer must commit to purchasing coverage through a health group cooperative, even though participation remains

Lollar voluntary.

TCA Secs. 56-07-2200; 56-07-2222

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 02/09/2010.

House Status: Referred to House Commerce Industrial Impact Subcommittee.

SB 3498
Beavers
HB
3433*
Harwell

TN Health Freedom Act. Declares that the power to regulate health care is not a federal power but belongs to the states according to the Ninth and Tenth Amendment. Establishes that every person in the state is able to choose or decline any mode of health care without penalty. Authorizes the attorney general to seek an injunction or any other appropriate relief in order to preserve the state's power.

TCA Secs. 08-00-0000; 08-06-0100; 56-00-0000; 56-07-1000; 63-00-0000; 68-00-0000; 71-00-0000

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 02/09/2010.

House Status: Referred to House Commerce.

SB 3579
Ketron
HB
2984*
Mumpower

Coverage for services from by marital & family therapist. Permits reimbursement to an insured for services provided by a licensed marital and family therapist, in addition to the services already listed in this section of the law.

TCA Sec. 56-07-2401

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 02/09/2010.

House Status: Referred to House Commerce Industrial Impact Subcommittee.

SB
3645*
Ketron

Study of recent trends in health insurance and medicine. Requires the commissioner of commerce and insurance to convene a working group of representatives from the insurance industry and the medical professions to study recent trends concerning various issues affecting the health insurance industry and those providing health care. Requires the working group to submit a report no later than January 1, 2012 regarding its findings and recommendations.

TCA Secs. 07-57-0000; 56-00-0000; 68-00-0000

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

JUDICIARY

SB 3820 **Damages in personal injury action - evidence.** Requires a
Johnson claimant for damages in a personal injury action to submit into
J. evidence the amount charged by providers for any services
HB received as a result of the injury and the actual amount paid by
3464* the claimant for such services if the amounts differ.
McCord

TCA Secs. 24-00-0000; 24-07-0100; 25-00-0000; 29-00-0000

Senate Status: Referred to Senate Judiciary.

House Status: Referred to House Judiciary Civil Practice Subcommittee.

LOCAL GOVERNMENT

SB **Bidding for group health insurance contracts.** Permits county
3655* governments that have adopted the County Purchasing Law of
Crowe 1957 to bid for group health insurance contracts without the
HB 3892 competitive bidding requirements of that law.
Hill

TCA Secs. 05-14-0000; 05-14-0108; 08-27-0000; 08-27-0403;
08-27-0502

Senate Status: Referred to Senate State & Local Government.

House Status: House companion bill introduced. (H: Hill)

TORT LIABILITY

SB 3560 **Defamation - Web site owners.** Includes web site owners to list
Ketron of types of media owners who are not liable for any damages for
HB defamatory statements displayed or published on the web site by
3560* another unless the web site owner failed to exercise due care to
Rowland prevent the publication or utterance of such statement on such
web site.

TCA Secs. 29-24-0000; 29-24-0104

Senate Status: Referred to Senate Judiciary.

House Status: Referred to House Judiciary Civil Practice Subcommittee.

SB 3571 **Property owner not liable for damages caused by felony**
Ketron **act.** Prohibits injured party from recovering damages from the

HB
3573*
Rowland

owner of a property where the injury occurs in cases where third person commits or attempts to commit a felony act. Applies only if the owner, lawful occupier, or tenant of such property did not participate in or facilitate the commission of such felony.

TCA Secs. 29-00-0000; 29-34-0201

Senate Status: Referred to Senate Judiciary.

House Status: Referred to House Judiciary Civil Practice Subcommittee.

SB
3754*
Bunch
HB 3905
McCord

Duty of care not owed to trespasser. Specifies that an owner, lessee, or occupant of land does not owe a duty of care to a trespasser on such land and is not liable for any injury to a trespasser on such land, in including injury caused by the owner, lessee, or occupant's negligent conduct.

TCA Secs. 29-00-0000; 29-34-0200

Senate Status: Referred to Senate Judiciary.

House Status: Introduced 2/8/2010

TRANSPORTATION VEHICLES

SB
3021*
Burks
HB 3121
Fincher

Proof of insurance for vehicle registration or renewal. Requires TN vehicle owners to be in full compliance with the TN Financial Responsibility Law of 1977, maintaining required insurance or a cash deposit or bond in the required amount.

TCA Secs. 55-04-0000; 55-04-0100; 55-12-0000

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

House Status: Referred to House Transportation Committee. House Government Operations will review if recommended.

SB
3433*
Tracy
HB 3851
Marsh

Safety devices on trailers. Requires a safety device to be placed between the trailer and the ball hitch of the motor vehicle towing the trailer. Failure to adhere to this policy is a Class C misdemeanor.

TCA Sec. 55-09-0200

Senate Status: Referred to Senate Transportation.

House Status: Referred to House Transportation Public Safety Subcommittee.

SB 3458 **Fee to obtain motor vehicle accident report.** Increases fee for
 Stewart obtaining written copy of a motor vehicle accident report from
 E. \$4.00 to \$10.00.
 HB
 3407* TCA Secs. 55-10-0000; 55-10-0108
 Harmon

Senate Status: Referred to Senate Transportation.
House Status: Set for House Public Safety Subcommittee
 02/09/2010.

UTILITIES

SB **Prepaid wireless emergency telephone service charge.**
 2497* Establishes a statewide prepaid wireless emergency telephone
 Southerland service charge of 2 percent of each retail transaction. Specifies
 HB 3533 that such prepaid wireless E911 charge shall be the only E911
 Maddox funding obligation imposed with respect to prepaid wireless
 telecommunications service in this state, and no tax, fee,
 surcharge, or other charge shall be imposed by this state.

TCA Secs. 07-86-0100; 07-86-0103; 07-86-0108

Senate Status: Referred to Senate Commerce, Labor &
 Agriculture.
House Status: Introduced 2/1/2010

WORKERS COMPENSATION

SB **Coverage for contractors and subcontractors in**
 2383* **construction.** Removes requirement, which became law
 Beavers December 31, 2009 (PC 1041, 105th GA), for sole proprietors and
 HB 2420 partners engaged in the construction industry to maintain workers'
 Weaver compensation insurance on themselves. Reverts to previous law,
 but without the previous law's exemption for Hancock County and
 Hawkins County.

TCA Secs. 50-06-0000; 50-06-0113

Senate Status: Referred to Senate Commerce, Labor &
 Agriculture.
House Status: Referred to House Employee Affairs
 Subcommittee.

SB **Liability of certain contractors in construction.** Removes
 2384* requirement, which became law December 31, 2009 (PC 1041,
 Beavers 105th GA), for sole proprietors and partners engaged in the

HB 2428 construction industry to maintain workers' compensation insurance
Weaver on themselves. Reverts to previous law, but without the previous law's exemption for Hancock County and Hawkins County. Same as SB 2383/HB 2420 except this bill has broader caption.

TCA Secs. 50-00-0000; 50-06-0113; 56-00-0000

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

House Status: Referred to House Employee Affairs Subcommittee.

SB **Calculating base period for purposes of unemployment.**
2409* Excludes periods of temporary total disability under the workers
Faulk compensation law from calculation of base period for purposes of
HB 3889 unemployment compensation.
Harrison

TCA Secs. 50-06-0000; 50-07-0000; 50-07-0218

Senate Status: Set for Senate Commerce, Labor & Agriculture Committee 02/09/2010.

House Status: House companion bill introduced. (H: Harrison)

SB 2554 **Exemption for corporate officers in construction industry.**
Ketron (1) Expands definition of "employee" to include persons being paid
HB by construction contractor as subcontractor unless subcontractor
2583* has workers' comp coverage, and to include independent
Curtiss contractor working or performing services in construction industry.
(2) Adds definitions of corporate officer, partner, and sole proprietor. (3) Adds language that must be included in notice of election to be exempt from workers' comp. (4) As to officers of corporation who are engaged in construction industry, provides that no more than three officers of corporation or of any group of affiliated corporations may elect to be exempt from workers' comp by filing written notice of election with department of labor and workforce development. Specifies what notice of election must contain. Provides that upon receipt of notice and application fee (\$50 with each request), department will issue certification of election to officer. Makes construction industry certificate of election effective for two years.

TCA Secs. 50-06-0000; 50-06-0102; 50-06-0104

Senate Status: Senate Commerce, Labor & Agriculture 02/02/2010 re-referred to Senate Calendar Committee.

House Status: Referred to House Consumer & Employee Affairs.

House Government Operations will review if recommended.

SB
2559*
Haynes
J.
HB 2869
Hackworth

Redefines average weekly wage. Revises the definition of "average weekly wage" to mean the actual weekly earnings of an employee under the employment contract or contract of hire in force at the time of the injury plus any overtime earnings and bonuses. Provides that average weekly wages may not be computed on less than a full-time workweek. Defines "earnings" to include anything received by the employee under the terms of the employment contract or contract for hire from which the employee realizes economic gain, including any allowance made in lieu of wages. Specifies that "employment contract" or "contract of hire" can be implied. Provides that if average weekly wages cannot be fairly and justly determined by the statute, then the average weekly wages of a person in the same grade/classification employed at the same work by the same employer at the time of the employee's injury will be used, and if a similar employee does not exist, the usual wage paid in the vicinity of the employer for the same or similar services will be used, provided the results obtained are just and fair to the employee and the employer.

TCA Secs. 50-00-0000; 50-06-0102

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 2840
Stewart
E.
HB
2844*
Matheny

Lengthens suspension of workers' compensation insurance. Lengthens suspension of requirement that sole proprietors and partners maintain workers' compensation insurance on themselves from March 28, 2011 until April 1, 2012. Same as SB 2841/HB 2845 but has broader caption.

TCA Secs. 01-03-0000; 29-00-0000; 39-11-0000; 50-00-0000; 56-00-0000; 62-00-0000

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

House Status: Referred to House Employee Affairs Subcommittee.

SB 2841
Stewart

Extension of workers' compensation suspension. Extends suspension of requirement for sole proprietors and partners to

E.
HB
2845*
Matheny

maintain workers' compensation insurance on themselves from March 28, 2011 to April 1, 2012.

TCA Secs. 01-03-0000; 29-00-0000; 39-11-0000; 50-00-0000; 56-00-0000; 62-00-0000

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

House Status: Referred to House Employee Affairs Subcommittee.

SB 2862
Black
HB
2932*
Pitts

Exemptions for sole proprietors, partners in construction.

(1) Shortens suspension of requirement for sole proprietors and partners to maintain workers' compensation insurance on themselves from March 28, 2011, to July 1, 2010. (2) Effective July 1, 2010, allows any sole proprietor or partner engaged in the construction industry, or a member of an LLC engaged in the construction industry, to elect to be exempt from the operation of the workers' compensation law, provided that no more than three members of an LLC may make such election. Requires any sole proprietor, partner, or LLC member electing exemption to give notice annually to the department of labor and workforce development and to deliver a copy of the notice form with an accompanying affidavit to any principal contractor, intermediate contractor, or subcontractor for each individual contract under which the sole proprietor, partner, or LLC member intends to work, prior to commencing such work. (3) Increases penalty for failure to comply with workers' compensation insurance requirements to three times average yearly premiums from one and one-half times if employer is engaged in construction industry. (4) Provides that if any employer engaged in the construction industry fails to obtain workers' compensation insurance coverage within the required time period, the employer will lose any right to exemption for five years, and if such failure is second or subsequent failure, the commissioner will notify the state board of licensing contractors, which shall revoke the contractor's license for a period determined by the department.

TCA Secs. 01-03-0000; 29-00-0000; 39-11-0000; 50-00-0000; 50-06-0113; 50-06-0412; 56-00-0000; 68-00-0000

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

House Status: Referred to House Consumer & Employee Affairs. House Government Operations will review if recommended.

SB 2928
Johnson
J.
HB
3015*
Sargent

Maximum medical improvement involving pain management. Provides that for purposes of temporary total disability, an employee claiming an injury occurring on or after July 1, 2010, that results in pain management treatments is conclusively presumed to be at maximum medical improvement upon earliest of (1) at the time the treating physician concludes the employee has reached maximum medical improvement; or (2) 52 weeks after the employee has reached maximum medical improvement as a result of the physical injury that is the proximate cause of the need for pain management. Contains broad caption.

TCA Secs. 50-00-0000; 50-06-0207

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 2930
Johnson
J.
HB
2929*
Sargent

Revises board of directors authorized to pool liabilities. Requires a trade or professional association which permits employers to enter into agreements to pool their liabilities for purposes of qualifying as self-insureds to have operating agreement -- or constitution or bylaws, as required by present law. Contains broad caption.

TCA Secs. 50-00-0000; 50-06-0405

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

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

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 2943
Norris
HB
2928*
Sargent

Revises determination of meaningful return to work. Applies cap of 1.5 times an employee's medical impairment rating when the pre-injury employer returns the injured employee to employment and at the time of settlement or trial the average weekly wages earned by the employee are equal to or greater than the average weekly wages the employee was receiving at the time of the injury, rather than equal to or greater than the wage the employee was receiving at the time of the injury. Creates presumption that the employee had a meaningful return to work if at the time of settlement or hearing, the employee is making an

average weekly wage equal to or greater than the average weekly wage the employee was receiving at the time of the injury.

TCA Sec. 50-06-0241

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB
2977*
Berke
HB 3299
McCormick

Association captive insurance companies. (1) Permits association captive insurance companies to insure obligations and liabilities arising under federal Longshoremen's and Harbor Workers' Compensation Act or any other federal legislation providing for compensation and benefits for job-related injuries. (2) Allows association captive insurance companies to hold any interest in qualified headquarters property.

TCA Secs. 50-00-0000; 50-06-0702; 56-00-0000; 56-13-0121

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

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

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB
2984*
Tate
HB 3313
Camper

Court-ordered depositions by physicians. (1) Permits a court to order a physician to give a deposition if a physician refuses to make a reasonable effort to give the deposition in a workers' compensation case within a reasonable period of time -- rather than within 90 days of receipt of notice. (2) Provides that a nominee's name for medical director in the workers' compensation program may only appear on one list of nominees for appointment. Contains broad caption.

TCA Secs. 50-06-0000; 50-06-0235; 50-06-0126

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB
3162*
Johnson
J.

Rental and Assignment of PPO Network Rights. Enacts the Rental and Assignment of PPO Network Rights. Requires contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted medical providers and their contractual reimbursement rates, upon entering or renewing a medical provider contract, to disclose to the medical provider whether the list of contracted medical providers may be sold, leased, transferred, or conveyed to other payers or agents; to disclose whether workers' compensation payers to whom the list of contracted medical providers may be sold, leased, transferred, or conveyed may be permitted to pay a medical provider's contracted rate if less than the workers' compensation fee schedule; to allow medical providers, upon the initial signing or renewal of a medical provider contract, to decline to participate in networks solely to serve workers' compensation payers that are sold, leased, transferred, or conveyed to workers' compensation payers; and to maintain a web page that contains a complete listing of customers to whom the network is sold, leased, transferred, or conveyed, as well as to maintain a toll-free telephone number whereby medical providers may access workers' compensation payer summary information and a list of lessees of the network. Sets forth what information must be delineated in the explanation of payment or explanation of review transmitted to the medical provider. Requires a workers' compensation payer to demonstrate that it is entitled to pay a contracted rate within 30 days of the receipt of a written request from a medical provider who has received a claim payment from the workers' compensation payer.

TCA Secs. 50-06-0200; 50-06-0204

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

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 3163
Johnson
J.
HB
3043*
Sargent

Settlement of future medical benefits. Reduces from three years to one year the period of time permitted for compromise and settlement of future medical benefits in a case. Contains broad caption.

TCA Secs. 50-06-0000; 50-06-0206

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council
02/08/2010.

SB 3175
Herron
HB 3514
McDonald

Exemptions on religious grounds. Permits employer to file application with department of labor and workforce development including written waiver of workers' compensation benefits and affidavit by employee indicating employee's membership with recognized religious sect or division of sect and adherence to established tenets or teaching of such sect or division by reason of which employee is conscientiously opposed to acceptance of benefits of any public or private insurance which makes payments in event of death, disability, old age, or retirement or makes payments toward cost of, or provides services for medical bills, including benefits of any insurance system established by federal Social Security Act.

TCA Secs. 50-06-0000; 50-06-0100

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council
02/08/2010.

SB 3336
Herron
HB
3525*
Maddox

Suspension of insurance requirement made permanent. Makes permanent the temporary suspension of the requirement that sole proprietors and partners in the construction industry obtain workers' compensation insurance on themselves. Broadly captioned.

TCA Secs. 01-03-0000; 29-00-0000; 39-11-0000; 50-00-0000; 56-00-0000; 62-00-0000

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

House Status: Referred to House Employee Affairs Subcommittee.

SB 3468
Stewart
E.
HB
3127*
Shepard

Health care provider rendering excessive services - penalty. Increases from "\$100 to \$1,000" to "\$200 to \$2,000" the range of the civil penalty that may be charged to a health care provider that is found by the commissioner of the department of labor and workforce development, pursuant to utilization review, to have rendered excessive or inappropriate services. Contains broad caption.

TCA Secs. 50-06-0000; 50-06-0124

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 3500
Beavers
HB
3628*
Weaver

Suspension of exemption for contractors made permanent. Makes permanent the exemption that sole proprietors and partners engaged in the construction industry do not have to carry workers' compensation insurance on themselves. Retains provision that proprietors and partners must carry workers' compensation insurance on any subcontractor, employee, or worker not otherwise covered by a workers' compensation policy. Broadly captioned.

TCA Secs. 01-03-0000; 29-00-0000; 39-11-0000; 50-00-0000; 56-00-0000; 68-00-0000

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

House Status: Referred to House Employee Affairs Subcommittee.

SB 3591
Ketron
HB
3163*
Curtiss

Insurance for sole proprietors, partners. (1) Shortens suspension of requirement that sole proprietors and partners maintain workers' compensation insurance on themselves from March 28, 2011, until July 1, 2010. (2) Effective July 1, 2010, creates a procedure for sole proprietors, partners, officers of corporations, and members of limited liability companies engaged in the construction industry to file for an exemption from obtaining workers' compensation insurance to cover themselves. Provides that certificate of election will last for two years. Limits to three the number of independent contractors, with no employees, that have exempted themselves from obtaining workers' compensation insurance on any one project. (3) Provides that "residential contractor" does not include any person building dwelling or other structure, or performing maintenance, repairs, or making additions to structures, on person's own property for person's own use and for which person receives no compensation.

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

House Status: Referred to House Employee Affairs

Subcommittee.

SB 3603
Ketron
HB
3162*
Curtiss

Insurance for sole proprietors and partners. Lengthens suspension of requirement that sole proprietors and partners maintain workers' compensation insurance on themselves from March 28, 2011, until June 30, 2011.

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

House Status: Referred to House Employee Affairs Subcommittee.

SB 3730
Haynes
J.
HB
3358*
Fincher

Procedures governing approval of settlements. Revises procedures governing approval of settlements of workers compensation cases by courts. Prohibits the parties from submitting a settlement agreement for approval to any court that is not a court of competent jurisdiction as provided in TCA 50-6-225 and prohibits the parties from waiving personal jurisdiction for the purposes of obtaining approval of a proposed settlement. Provides that the employee must be required to be present at the time any proposed settlement agreement is submitted to a court for approval. Excepts situations where physical presence is not possible due to military service or the employee is suffering a debilitating illness and cannot physically be present. Prohibits judge from approving any proposed settlement agreement without having communicated with the employee in person or by telephone. Contains broad caption.

TCA Secs. 50-06-0000; 50-06-0206

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 3731
Haynes
J.
HB
3582*
Coleman

Handling future medicals after judgment or settlement. Establishes a procedure for handling disputes involving future medical care and treatment, medical services, or medical benefits, or both, in a workers' compensation case after judgment or settlement. Permits the employee or the employer, or the attorney for the employee or employer, to request assistance of a workers' compensation specialist by filing with the Division of Workers' Compensation a form prescribed for that purpose. Provides that if the employer does not agree to provide the medical care and

treatment at issue, the specialist will enter an order as to whether the employer will provide medical care and treatment, medical services or medical benefits, or both, and if so, the specific medical care and treatment, medical services or medical benefits, or both, that will be provided. Provides that if the request for assistance involved a request for medical care or treatment pursuant to a court judgment or decree following a trial of the underlying workers' compensation claim, either the employer or the employee may appeal the specialist's order to the original court that issued the judgment or decree. Provides that if the request for assistance involved a request for medical care and treatment pursuant to a settlement, the aggrieved party may request administrative review. Contains broad caption.

TCA Secs. 50-06-0000; 50-06-0204

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 3732
Haynes
J.
HB
3143*
Stewart
M.

Treatment of common carrier by motor vehicle. Eliminates exclusion for leased owner/operator of a motor vehicle under contract to a common carrier from workers' compensation law. Contains broad caption.

TCA Secs. 50-06-0000; 50-06-0106

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 3750
Bunch
HB
3557*
Rowland

Whether person is employee or independent contractor. Creates a rebuttable presumption that an individual is an "independent contractor" and not an "employee" if the court finds that one or more of the statutory factors tend to prove that the individual is an "independent contractor" and not an "employee." Creates conclusive presumption that an individual is an "independent contractor" and not an employee if the court finds that three or more of statutory factors tend to prove that the individual is an "independent contractor" and not an "employee."

TCA Secs. 50-06-0000; 50-06-0102

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

SB 3811
Johnson
J.
HB
3325*
Harwell

Membership of advisory council on workers' compensation.

Clarifies that the employee representative on the advisory council on workers' compensation from organized labor must be selected from a list of three "nominees," instead of "names," provided by the state labor council of the AFL-CIO.

TCA Secs. 04-29-0000; 50-00-0000; 50-06-0121; 56-00-0000

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

House Status: Referred to House Employee Affairs Subcommittee.

Other Status: Set for Workers' Compensation Advisory Council 02/08/2010.

HB
2427*
Evans

Maintaining workers' compensation insurance. Suspends until March 31, 2012, the requirement, which became law December 31, 2009 (PC 1041, 105th GA), for sole proprietors and partners engaged in the construction industry to maintain workers' compensation insurance on themselves unless the proprietor or partner is doing work directly for the owner of the property or unless the proprietor or partner is working as an intermediate contractor or subcontractor but specifies that the proprietor or partner must carry workers' compensation insurance on any subcontractor, employee, or worker not otherwise covered by a workers' compensation policy.

TCA Secs. 50-00-0000; 56-00-0000; 50-06-0113

House Status: Referred to House Employee Affairs Subcommittee.

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