



## ATRA 2013 STATE JUDICIAL REFORM SUMMARY

JANUARY 24, 2013

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Construction Industry Round Table (CIRT)*

### Arizona

On January 17, 2013, Representative Justin Pierce (R) introduced H.B. 2387, and it was referred to the House Committee on Judiciary and the House Committee on Rules. This bill provides that in any action arising out of a contractual dispute, the court may award the successful party reasonable attorney fees. If a written settlement offer is rejected and the verdict obtained plus reasonable attorney fees incurred up to the date of the offer is equal to or more favorable to the offeror than the offer made, the offeror is deemed to be the successful party and the court may award him reasonable attorney fees. For additional information on this bill, please contact Gretchen Conger of the Arizona Chamber of Congress as [gconger@azchamber.com](mailto:gconger@azchamber.com).

Representative David Stevens (R) introduced H.B. 2239 on January 17, 2013, and the bill was referred to the House Committee on Judiciary and the House Committee on Rules. This is collateral source rule legislation that states in an action to recover damages, the defendant may introduce evidence of any money or benefits that is or will be paid to the plaintiff, as a result of the injury, death, damage or destruction to establish that any cost, expense or loss the plaintiff claims to have suffered is subject to reimbursement or indemnification from the collateral source. H.B. 2239 allows the plaintiff to then introduce certain evidence to rebut that of the defendant. For additional information on this bill, please contact Gretchen Conger of the Arizona Chamber of Congress as [gconger@azchamber.com](mailto:gconger@azchamber.com).

Representative Bob Thorpe (R) introduced H.B. 2465 on January 17, 2013, and it was referred to the House Committee on Judiciary and the House Committee on Rules. The bill requires attorneys to be certified as a "medical malpractice attorney" before he is allowed to file a medical liability action. A judge is not allowed to make a substantive ruling in a medical liability action unless the attorney has been certified by the judge. H.B. 2465 grants the Supreme Court the power to establish medical malpractice training and a certification program for attorneys. For additional information on this bill, please contact Gretchen Conger of the Arizona Chamber of Congress as [gconger@azchamber.com](mailto:gconger@azchamber.com).

### California

A.B. 167 (Curt Hagman-D) was introduced on January 23, 2013. This bill would allow private persons to bring an action for unfair competition, a fraudulent business act or any false representations to the public. A.B. 167 defines an 'injury in fact' required for a private person to bring suit as damages suffered by each individual plaintiff or member of a class amounting to at least \$500. For additional information about this bill, please contact Katherine Pettibone of the Civil Justice Association of California at [kpettibone@cjac.org](mailto:kpettibone@cjac.org).

## Connecticut

H.B. 5520 (John Shaban-R) was referred to the Joint Committee on Judiciary on January 22, 2013. This bill would increase the maximum money damages threshold in small claims actions from \$5,000 to \$10,000. For additional information on this bill, please contact Lauren Sheets of ATRA at [lsheets@atra.org](mailto:lsheets@atra.org).

Representative John Shaban (R) introduced H.B. 5521 on January 22, 2013, and the bill was then referred to the Joint Committee on Judiciary. The bill would limit recovery of noneconomic damages in medical liability actions to not more than \$300,000 for each health care provider and health care institution per event, and \$800,000 overall for each event. A similar bill, H.B. 5229 (Gail Lavielle-R), was introduced and referred to the same committee on January 11<sup>th</sup>. This bill would limit recovery of noneconomic damages in medical liability cases to \$250,000 for each health care provider and institution per event, and \$750,000 overall for each event. For additional information on these bills, please contact Ken Ferrucci of the Connecticut State Medical Society at [kferrucci@csms.org](mailto:kferrucci@csms.org).

S.B. 449 (Antonietta Boucher-R) was referred to the Joint Committee on Judiciary on January 23, 2013. This bill would require all medical malpractice claims to be submitted to arbitration panels consisting of a judge, doctor and an attorney with a medical background. The arbitration process would be in place of the current mandatory mediation. The purpose of the bill is to encourage pretrial settlement of medical liability claims. Senator Boucher also introduced another bill, S.B. 451, which would implement the use of binding arbitration in medical liability actions. The bill also was referred to the Joint Committee on Judiciary on January 23<sup>rd</sup>. For additional information on these bills, please contact Ken Ferrucci of the Connecticut State Medical Society at [kferrucci@csms.org](mailto:kferrucci@csms.org).

On January 23, 2013, S.B. 452 (Antonietta Boucher-R) was referred to the Joint Committee on Judiciary. This bill would limit the award of noneconomic damages in medical liability claims to \$250,000. For additional information on these bills, please contact Ken Ferrucci of the Connecticut State Medical Society at [kferrucci@csms.org](mailto:kferrucci@csms.org).

S.B. 450 (Antonietta Boucher-R) was referred to the Joint Committee on Judiciary on January 23, 2013. This bill would revise the requirements associated with the filing of certificates of merit in medical liability cases. For additional information on these bills, please contact Ken Ferrucci of the Connecticut State Medical Society at [kferrucci@csms.org](mailto:kferrucci@csms.org).

On January 23, 2013, H.B. 5675 was referred to the Joint Committee on Judiciary. This bill requires physicians to obtain expert witness certification prior to rendering expert opinion testimony in a medical liability action. It requires physicians who are not licensed in the state to obtain an expert witness certificate from the Department of Public Health prior to rendering expert opinion testimony in a Connecticut medical liability action. For additional information on these bills, please contact Ken Ferrucci of the Connecticut State Medical Society at [kferrucci@csms.org](mailto:kferrucci@csms.org).

## Hawaii

S.B. 79 (Willie Espero-D) was referred to the Senate Committee on Judiciary and Labor on January 17, 2013. This bill would eliminate the statute of limitations for certain types of cases. For additional information on this bill, please contact Gary Slovin of the Coalition to Stop Lawsuit Abuse at [glsovin@awlaw.com](mailto:glsovin@awlaw.com).

On January 22, 2013, S.B. 267 (Sam Slom-R) was referred to the Senate Committee on Judiciary and Labor. The bill would abolish joint and several liability, and provides that each party is only liable for its share of the damages or the amount of damages allocated to that party in direct proportion to the party's percentage of responsibility. Under S.B. 267, a separate judgment would be rendered against each party for the amount allocated to that party. For additional information on this bill, please contact Gary Slovin of the Coalition to Stop Lawsuit Abuse at [glsovin@awlaw.com](mailto:glsovin@awlaw.com).

Representative Della Au Belatti (D) introduced H.B. 650 on January 19, 2013 and it was referred to the House Committee on Health and the House Committee on Judiciary. This bill would establish a new rule of evidence that statements or conduct of a doctor concerning an unanticipated medical outcome that expresses an apology, compassion, condolences, or commiseration are inadmissible to prove liability for any claim growing out of the event. For additional information on this bill, please contact Gary Slovin of the Coalition to Stop Lawsuit Abuse at [glsovin@awlaw.com](mailto:glsovin@awlaw.com).

On January 18, 2013, Representative Chris Lee (D) introduced H.B. 442 and it was referred to the House Committee on Agriculture and the House Committee on Judiciary. This bill would extend limited liability protections against trespasser lawsuits to landowners who own four acres or less used primarily for a farming operation that produces annual taxable revenue in excess of \$100,000. For additional information on this bill, please contact Gary Slovin of the Coalition to Stop Lawsuit Abuse at [glsovin@awlaw.com](mailto:glsovin@awlaw.com).

On January 22, S.B. 252 (Sam Slom-R) was referred to the Senate Committee on Judiciary and Labor and the Senate Committee on Ways and Means. This is a comprehensive medical liability reform bill. First, it would allow for arbitration of medical services contracts if the first article of the contract explicitly contained an arbitration clause. The bill provides the language that should be used and other requirements for the clause. Next, S.B. 252 contains a collateral source rule and allows for the defendant to introduce evidence of any amount payable as a benefit to the plaintiff. Where the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount which the plaintiff has paid or contributed to secure the plaintiff's right to any insurance benefits introduced as evidence by the defendant. S.B. 252 also would limit contingency fees to 40% of the first \$50,000 recovered, 33.33% of the next \$50,000 recovered, 25% of the next \$500,000 recovered, and 15% on any amount on which the recovery exceeds \$600,000. Under this legislation, a judge could, at the request of either party, enter a judgment ordering that money damages for future damages be paid in whole or in part by periodic payments rather than by a lump sum payment if the award equals or exceeds \$50,000. S.B. 252 also would shorten the statute of limitations for medical tort actions from six years to three years after the date of the injury or one year after the plaintiff discovers, or reasonably should

have discovered, the injury. Finally, this bill would limit the amount recoverable for noneconomic damages to \$250,000. It also redefines what constitutes noneconomic damages. For additional information on this bill, please contact please contact Gary Slovin of the Coalition to Stop Lawsuit Abuse at [glsovin@awlaw.com](mailto:glsovin@awlaw.com).

S.B. 298 (Sam Slom-R) was referred to the Senate Committee on Judiciary and Labor on January 22, 2013. This bill would eliminate the statute of limitations in certain cases for minors. For additional information on this bill, please contact Gary Slovin of the Coalition to Stop Lawsuit Abuse at [glsovin@awlaw.com](mailto:glsovin@awlaw.com).

### **Indiana**

Representative Alan Morrison (R) introduced H.B. 1502 on January 22, 2013, and the bill was referred to the House Committee on Judiciary. This bill would codify current common law in Indiana regarding trespasser liability. It provides that a person who possesses real property does not owe a duty of care to a trespasser, except to refrain from willfully or wantonly injuring the trespasser. For additional information on this bill, please contact Bob Kraft of the Indiana Farm Bureau at [rkraft@infarmbureau.org](mailto:rkraft@infarmbureau.org).

The Senate Committee on Judiciary reported favorably on S.B. 133 (Dennis Kruse-R) on January 17, 2013, and the bill was ordered to be engrossed. This bill provides that an action to enforce a judgment must be commenced no later than 20 years after the entry of the judgment or decree. For additional information on this bill, please contact Marty Wood of the Insurance Institute of Indiana at [mpw@insuranceinstitute.org](mailto:mpw@insuranceinstitute.org).

### **Iowa**

S.S.B. 1054 (Senate Judiciary Committee) was referred to the Senate Judiciary Committee on January 17, 2013. This bill provides that in any medical liability action, the plaintiff is required, within 180 days of the defendant's answer, to serve the defendant with an expert's certificate of merit affidavit for each expert scheduled to testify. The bill also would limit noneconomic damage awards in medical liability cases to \$1 million. The House companion bill, H.S.B. 36 was introduced by the House Judiciary Committee on January 23, 2013, and it was referred to the House Committee on Judiciary Subcommittee of Representatives Baltimore (Chairmen), Kaufmann and Olson. For additional information on this bill, please contact Kevin Condon of the Iowa Association of Business and Industry at [kcondon@iowaabi.org](mailto:kcondon@iowaabi.org).

### **Maryland**

H.B. 130 (House Judiciary Committee) was referred to the House Judiciary Committee on January 17, 2013. This bill authorizes a court to award a prevailing party reasonable attorney's fees and expenses in specified civil actions. It requires a court to consider specified factors in determining whether to make an award to a prevailing party. Under this legislation, the court would have the power to award attorney's fees to a prevailing defendant only on a finding that the action was frivolous. H.B. 130 also establishes a method of calculating an award of attorney's fees under the Act or any other

State statute authorizing an award of reasonable attorney's fees. The Senate companion bill, S.B. 263 (Edward Kasemeyer-D) was referred to the Senate Committee on Judicial Proceedings on January 18<sup>th</sup>. For additional information on this bill, please contact Mat Palmer of the Maryland Chamber of Commerce at [mpalmer@mdchamber.org](mailto:mpalmer@mdchamber.org).

### **Michigan**

H.B. 4010 (Kurt Heise-R) was referred to the House Committee on Judiciary on January 22, 2013. This bill would enact the Michigan False Claims Act and includes a qui tam provision. It creates procedures for civil actions for false claims, procedures and contents of civil investigative demands. For additional information on this bill, please contact Wendy Block of the Michigan State Chamber of Commerce at [wblock@michamber.com](mailto:wblock@michamber.com).

### **Mississippi**

H.B. 529 (Jerry Turner-R) was referred to the House Committee on Judiciary A on January 21, 2013. This bill requires a claimant to provide a sworn statement identifying all existing asbestos trust claims made by or on behalf of the claimants and all trust claims material pertaining to each identified asbestos trust claim within 30 days after the commencement of discovery in an asbestos tort action. For additional information on this bill, please contact Lauren Sheets of ATRA at [lsheets@atra.org](mailto:lsheets@atra.org).

Representative Andy Gipson (R) introduced H.B. 504 on January 21, 2013, and the bill was referred to the House Committee on Judiciary. This bill would create the Landowner Protection Act and would codify current Mississippi common law regarding trespasser liability. For additional information on this bill, please contact Lauren Sheets of ATRA at [lsheets@atra.org](mailto:lsheets@atra.org).

On January 21, 2013, H.B. 477 (Phillip Gunn-R) was referred to the House Committee on Judiciary A. This bill clarifies that only person listed in this section may bring a wrongful death action and that only those persons shall be considered interested parties. Included in the list are husbands, wives, children, and siblings. For additional information on this bill, please contact Lauren Sheets of ATRA at [lsheets@atra.org](mailto:lsheets@atra.org).

### **Missouri**

S.B. 64 (Bob Dixon-R) was referred to the Senate Committee on Judiciary, Civil and Criminal Jurisprudence on January 17, 2013. This bill establishes that in an action against a health care provider for personal injury or death, the plaintiff has the burden of proving noneconomic damages by clear and convincing evidence. For more information about this bill, please contact Brad Jones of NFIB/Missouri at [brad.jones@nfib.org](mailto:brad.jones@nfib.org).

S.B. 81 (Kurt Schaefer-R) was referred to the Senate Committee on Judiciary, Civil and Criminal Jurisprudence on January 17, 2013. This bill gives the courts discretion to award attorney's fees to prevailing parties in any civil action against a state, city, county official or employee for violation of civil rights. Under this legislation, the party seeking an award of attorney's fees must, within 30 days of the final judgment, submit an application to the court showing that the party is the prevailing party, is

eligible to receive an award, and the application must include an itemized statement from the attorney or expert witness appearing on behalf of the party. The court may reduce or deny the award if it finds that the prevailing party engaged in conduct which unduly and unreasonably prolonged the resolution of the case. For more information about this bill, please contact Brad Jones of NFIB/Missouri at [brad.jones@nfib.org](mailto:brad.jones@nfib.org).

### **Montana**

On January 29, 2013, the House Business and Labor Committee will hold a hearing on H.B. 225 (Cary Smith-R). This bill would set the post-judgment interest rate at a rate equal to the Federal Reserve System prime interest rate +2%. The current interest rate is 10%. For additional information on this bill, please contact Webb Brown of the Montana Chamber of Commerce at [webb@montanachamber.com](mailto:webb@montanachamber.com).

The House Business and Labor Committee will hold a hearing on H.B. 224 (Cary Smith-R) on January 29, 2013. This bill states that appeal bonds may not exceed \$1 million in any action in which all appellants are either individuals or are businesses with 100 or fewer full-time employees, or \$50 million in any other action. For additional information on this bill, please contact Webb Brown of the Montana Chamber of Commerce at [webb@montanachamber.com](mailto:webb@montanachamber.com).

### **Nebraska**

The Legislative Committee on Judiciary is scheduled to hear L. 12 (Bob Krist) today, January 24, 2013. This bill would change the statute of limitations in product liability actions. Under this legislation, a product liability action must be commenced within the period of time commensurate with the product's written warranty or eight years after the date on which the death, injury or damage occurred, whichever is longer. Currently, the statute of limitations for such actions is four years after the date on which the death or injury occurred. For additional information, please contact Ronald Sedlacek of the Nebraska Chamber of Commerce & Industry at [Ronald.sedlacek@huschblackwell.com](mailto:Ronald.sedlacek@huschblackwell.com).

### **New Jersey**

Assemblywoman Celeste Riley (D) filed A.B. 3719 on January 17, 2013. This bill would include payday lending as a violation of the consumer fraud act. For additional information on this bill, please contact Marcus Rayner of the New Jersey Lawsuit Reform Alliance at [mrayner@njlra.org](mailto:mrayner@njlra.org).

### **New Mexico**

S.B. 133 (Joseph Cervantes-D) was referred to the Senate Committee on Public Affairs and the Senate Committee on Judiciary on January 21, 2013. This bill would amend the state's current Medicaid false claims act. It changes enforcement of the act to the attorney general. It expands liability to include those who knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the state. S.B. 133 allows for restrictions on individuals initiating Medicaid false claims actions and provides for pursual of claims through alternative remedies. The bill also expands whistleblower protection to include agents and contractors. Finally, the bill changes the standards for allowing a defendant to obtain attorney fees and costs. The court must find that the claim was clearly

frivolous, clearly vexatious, or was brought primarily for purposes of harassment. For additional information on this bill, please contact Lauren Sheets of ATRA at [lsheets@atra.org](mailto:lsheets@atra.org).

### **New York**

On January 17, 2013, A.B. 2687 (Richard Gottfried-D) was referred to the Assembly Committee on Health. This bill would amend the public health law, in relation to available remedies in private actions by patients of residential health care facilities. It would allow class actions by patients, patients' legal representatives, or such patients' estates. For additional information on this bill, please contact Tom Stebbins of the Lawsuit Reform Alliance of New York at [tstebbins@lraney.org](mailto:tstebbins@lraney.org).

Senator Kemp Hannon (R) introduced S.B. 2531 on January 18, 2013, and the bill was referred to the Senate Committee on Judiciary. The bill provides that in cases of medical liability, an expert witness must be licensed to practice in at least one state in the same profession as the defendant, must be actively engaged in clinical practice or teaching and have experience in the care at issue, and if the defendant is board certified and the standard of care at issue involves his specialty, the expert must be board certified in the same specialty. S.B. 2531 also requires each party to disclose the identity of all expert witnesses and must provide their testimony, as well as all exhibits to be used as support for their opinions. This legislation also creates a new element of professional misconduct for providing expert witness testimony that is without reasonable medical foundation. Finally, S.B. 2531 creates the health care courts pilot program consisting of five specialized health care courts within the supreme court of the five chosen counties. These courts will have exclusive jurisdiction over all medical liability claims. For additional information on this bill, please contact Tom Stebbins of the Lawsuit Reform Alliance of New York at [tstebbins@lraney.org](mailto:tstebbins@lraney.org).

On January 18, 2013, S.B. 2533 (Kemp Hannon-R) was referred to the Senate Committee on Judiciary. This bill provides that in any medical liability action, any communication or conduct by a health care provider expressing apology or regret, made in good faith to a patient or a patient's relative, is inadmissible in any civil proceedings as an admission of liability. For additional information on this bill, please contact Tom Stebbins of the Lawsuit Reform Alliance of New York at [tstebbins@lraney.org](mailto:tstebbins@lraney.org).

### **Pennsylvania**

On January 22, 2013, H.B. 204 (Robert Godshall-R) was referred to the House Committee on Judiciary. This legislation proposes an amendment to the state Constitution, authorizing legislation to limit recovery of noneconomic and punitive damages in medical liability actions. For additional information about this bill, please contact Kevin Shivers of the NFIB/Pennsylvania at [kevin.shivers@nfib.org](mailto:kevin.shivers@nfib.org).

H.B. 203 (Robert Godshall-R) was referred to the House Committee on Judiciary on January 22, 2013. This bill would limit noneconomic damage awards in medical liability actions to \$250,000, unless the health care provider did not act in good faith and in a manner amounting to gross negligence or reckless, willful or wanton conduct. For additional information about this bill, please contact Kevin Shivers of the NFIB/Pennsylvania at [kevin.shivers@nfib.org](mailto:kevin.shivers@nfib.org).



## **Pennsylvania, continued**

H.B. 226 (Anthony DeLuca-D) was referred to the House Committee on Insurance on January 22, 2013. This bill provides that using occupation or attained level of education as a factor in the underwriting or ratemaking processes for private passenger automobile rates is considered an “unfair or deceptive act” and is a violation of the state’s Unfair Insurance Practices Act. For additional information about this bill, please contact Kevin Shivers of the NFIB/Pennsylvania at [kevin.shivers@nfib.org](mailto:kevin.shivers@nfib.org).

## **Rhode Island**

On January 16, 2013, Senator Marc Cote (R) introduced S.B. 80 and it was referred to the Senate Committee on Judiciary. This bill would limit the liability of a tortfeasor for damages to several only and not joint if it is found that the defendant’s act or omission constituted no more than 25% of the damages sustained by the plaintiff. For additional information on this bill, please contact Michael Isaac of the Defense Counsel of Rhode Island at [dcricri@defensecounselri.org](mailto:dcricri@defensecounselri.org).

## **Virginia**

On Wednesday, January 23, the House Courts, Civil Subcommittee reported favorably on a package of affirmative tort reform bills. The package of bill is now scheduled to be heard by the full House Courts Committee on Friday, January 25, 2013. For additional information about any of these bills, please contact Rob Shinn of the Virginia Alliance for Tort Reform at [rob@capresults.net](mailto:rob@capresults.net).

H.B. 1708 (Greg Habeeb-R) would amend Virginia civil procedure laws, by allowing for a motion for summary judgment and admissions to be based upon depositions. Currently, Virginia law does not allow for a motion of summary judgment to be based on discovery depositions.

H.B. 2004 (Ben Cline-R) would codify the common law with regards to trespassers. The bill provides that a possessor of real property owes no duty of care to a trespasser except in circumstances where a common law or statutory right of action already exists.

H.B. 1618 (Tom Gillbert-R) would change current venue laws, and require a ‘practical nexus’ such as the location of fact witnesses, plaintiffs or evidence, in addition to the ‘regularly conducting substantial business’ requirement for proper venue. Under current law, a company can be sued anywhere they have substantial business activities, which has been defined as just about anywhere they have operations. This is a very important change for companies that get sued in plaintiff friendly jurisdictions.

H.B. 1433 (David Albo-R) pertains to the consolidation of an infant’s cause of action with a parent’s medical bills. Under this legislation, any action by a parent or guardian for expenses of attempts to cure an infant from a personal injury or loss of services of the infant shall be brought within the limitations period applicable to the infant’s cause of action.



## **Virginia, continued**

On January 23, 2013, a group of liability- expanding bills were defeated in the House Courts, Civil Subcommittee. For additional information on any of these bills, please contact Rob Shinn of the Virginia Tort Reform Alliance at [rob@capresults.net](mailto:rob@capresults.net).

H.B. 1551 (Manoli Loupassi-R) provided that the statute of limitations for filing a cause of action against anyone other than a health care provider for injury resulting from implanted medical devices, toxic exposure, and prescribed or over-the-counter medications accrued from the time the person knew or should have known of the injury and its causal connection to such device, substance, or medication.

H.B. 1552 (Manoli Loupassi-R) would have increased the limit on punitive damages from \$350,000 to \$675,000. The bill also mandated that the maximum award limit be adjusted annually in an amount equal to the annual increase in the United States Average Consumer Price Index.

H.B. 1434 (Jared Albo-R) stated that in any action involving the death or injury of a person who, at the time of the injury or death, was an infant or was at least 18 years of age but less than 24 years of age and was enrolled as a full-time student, there was a rebuttable presumption that the person would have earned wages during his lifetime at the minimum wage rate in effect at the time the action was filed. For purposes of the presumption, wages would have been calculated based on 40 hours of work per week and continues until the person would have been 62 years of age.

## **Washington**

S.B. 5100 (James Hargrove-D) was referred to the Senate Committee on Law and Justice on January 18, 2013. This bill would lengthen the statute of limitations in certain types of cases. For additional information on this bill, please contact Dana Childers Bieber of the Washington Liability Reform Coalition at [dana@walrc.org](mailto:dana@walrc.org).

The House Judiciary Committee heard H.B. 1000 (Jim Moeller-D) on January 16, 2013, and no action was taken. The bill would provide immunity for health care providers who participate in good faith in the provision of medical care or in the withholding or withdrawal of life-sustaining treatment in accordance with the directions contained in a form developed under provisions of existing law. For additional information on this bill, please contact Dana Childers Bieber of the Washington Liability Reform Coalition at [dana@walrc.org](mailto:dana@walrc.org).

The House Judiciary Committee heard H.B. 1065 on January 22, 2013, and no action was taken. This bill provides that a claim sought to be arbitrated is subject to the same statute of limitations as if the claim had been brought in court. For additional information on this bill, please contact Dana Childers Bieber of the Washington Liability Reform Coalition at [dana@walrc.org](mailto:dana@walrc.org).

## Washington, continued

S.B. 5031 (Mike Padden-R) is scheduled to be heard in the Senate Committee on Law and Justice on January 25, 2013. This bill would require actions for damage to real property resulting from construction, alteration, or repair on adjacent property to be commenced within two years after the property owner first discovered or reasonably should have discovered the damage. For additional information on this bill, please contact Dana Childers Bieber of the Washington Liability Reform Coalition at [dana@walrc.org](mailto:dana@walrc.org).

S.B. 5073 (Maralyn Chase-D) was referred to the Senate Committee on Agriculture, Water and Rural Economic Development on January 17, 2013. This bill would create a new cause of action regarding the disclosure of foods produced through genetic engineering. For additional information on this bill, please contact Dana Childers Bieber of the Washington Liability Reform Coalition at [dana@walrc.org](mailto:dana@walrc.org).

## Wyoming

On January 18, 2013, the Senate Committee on Judiciary reported favorably on S.B. 70 (Gerald Geis-R). This bill would codify current common law in Wyoming regarding trespass liability. For additional information on this bill, please contact Lauren Sheets of ATRA at [lsheets@atra.org](mailto:lsheets@atra.org).

On January 21, 2013, the House passed H.B. 115 (Mike Greear-R), a bill pertaining to the statute of limitations in wrongful death suits, by a vote of 59-0. Wyoming currently has a two-year statute of limitations for wrongful death claims. Every wrongful death action must be brought by and in the name of the decedent's wrongful death representative for the exclusive benefit of beneficiaries who sustained damage. Before a wrongful death action can begin, a party must file a motion to be appointed the wrongful death representative. H.B. 115 would toll the statute of limitations from the time the action is filed until 30 days after an order appointing the wrongful death representative is entered, thus extending the statute of limitations by 30 days. If the motion is denied, there is no penalty and the additional time allows another party to file a motion to be appointed the representative. It increases the chances of a wrongful death claim being brought against a defendant because the statute of limitations is lengthened. There also is a slippery slope argument because if you begin with a 30-day toll, it opens the door for a dangerous trend of further extending the statute of limitations in both wrongful death actions, and others as well. For additional information on this bill, please contact Lauren Sheets of ATRA at [lsheets@atra.org](mailto:lsheets@atra.org).

