

UTAH STATE SENATE

UTAH STATE CAPITOL COMPLEX • 320 STATE CAPITOL P.O. BOX 145115 • SALT LAKE CITY, UTAH 84114-5115 • (801) 538-1035

February 9, 2011

Mr. President:

The Judiciary, Law Enforcement, and Criminal Justice Committee reports a favorable recommendation on **S.B. 52**, TORTIOUS ACT ARBITRATION, by Senator S. Urquhart, with the following amendments:

- 1. Page 2, Lines 42 through 57:
 - 42 <u>78B-10a-102.</u> General provisions -- Filing -- Notice -- Limits.
 - 43 (1) Except for bodily injury cases involving a motor vehicle as described in Sections
 - 44 31A-22-303, 31A-22-305, and 31A-22-305.3, {and} medical malpractice cases as described in
 - 45 <u>Section 78B-3-401</u>, <u>and governmental claims described in section 63G-7-401</u>, <u>a</u> person suffering personal injury or property damage as a result of tortious
 - 46 conduct may elect to submit all bodily injury claims and property damage claims to arbitration
 - 47 by filing a notice of the submission of the claim to binding arbitration in a district court if:
 - 48 (a) <u>all named defendants have liability insurance or are self-insured as</u>
 evidenced by a separate fund to pay claims or by evidence of a retention liability
 policy that covers claims in excess of a certain monetary amount;
 - (b) the claimant or the claimant's representative has:
 - * * * Some lines not shown * * *
 - 53 { (b) } (c) the notice required under Subsection (1)(a)(ii) is filed while the action under

Bill Number

Action Class

Action Code

S.B. 52 February 10, 2011 - Page 2

- 54 <u>Subsection (1)(a)(i) is still pending.</u>
 - * * * Some lines not shown * * *
 - (3) All parties to a claim may stipulate to submit the claim to arbitration under this chapter. If the claim is submitted to arbitration, the parties may not claim:
 - (a) a right of recission under Section 78B-10a-104; or
 - (b) the right to a trial de novo under Section 78B-10a-108.
 - 2. *Page 3, Lines 64 through 66:*
 - 64 <u>78B-10a-104.</u> Recission -- Discovery.
 - 65 (1) (a) A { person } claimant who has elected arbitration in accordance with this chapter may
 - 66 rescind the election if the rescission is made within:
 - 3. Page 5, Line 151 through Page 6, Line 153:
 - (3) (a) If a defendant, as the moving party in a trial de novo requested in accordance
 - with Subsection 78B-10a-107(2), does not obtain a verdict that is at least {35%} less than the

 - arbitration award, the defendant is responsible for all of the nonmoving party's costs.

Respectfully,

Mark B. Madsen Committee Chair

Voting: 5-0-1

3 SB0052.SC1.WPD /JDH ECM/JDH 2/10/11 10:22 am

Action Class

