

GOP bill bashes trial lawyers

By TIM RICHARD
BRYAN WITZER

State Senate Republicans performed aggravated assault on the Michigan Trial Lawyers Association by passing a bill to cut product liability suits.

"This is about restoration of common sense," said Sen. Mike Rogers, R-Howell, charging that "we clog the courts with people who should not be there and are taking valuable resources and valuable time away from the victims who deserve to be compensated."

"It wasn't until this week that it was the corporations that sold defective products that got away with murder," replied Sen. Alma Wheeler Smith, D-Salem.

The MTLA — whose members represent plaintiffs suing companies and local governments, and contribute heavily to Democratic Infringed Republicans with full-page ads that said the bill would result in more Great Lakes pollution.

The GOP bill hit the lawyers by limiting "contingency" fees under which lawyers collect one-third of a jury award rather than an hourly rate.

Wednesday's vote was 22 to 14. The bill goes to the House, where Republicans have a 56-53 edge, but a tighter battle is expected.

Voting yes were 21 Republicans and one Democrat. Republican David Honigman, an attorney from West Bloomfield, joined 13 Democrats in opposition. Two Detroit Democrats were absent. Except for Honigman, all area

senators voted with their parties. Senate Bill 344 will:

- Limit so-called "jury shopping" by requiring suits to be filed where the injury occurred, not in Wayne County where corporate offices are located and juries are more generous.
- Allow juries to continue awarding economic damages (medical expenses and lost wages). But it will cap "pain and suffering" awards at \$500,000 for death or loss of a vital bodily function and \$280,000 for other injuries.
- Junk the doctrine of "joint and several liability," under which a "deep pockets" defendant that was 20 percent at fault could be required to pay 100 percent of the damages if other defendants were uncollectible.
- Prohibit recovery by a plaintiff who was 50 percent or more at fault because of alcohol or drug use.

Sponsor Joel Gougoune, R-Bay City, cited a suit against Westland's city ice arena as a horrible example of how courts have turned business and government into "a form of social insurance."

In an April 21 decision, the state Court of Appeals ordered a trial in the case of Gary Singerman, who was playing goalie without a mask, struck in the eye by a deflected puck and injured. He charged the arena's lighting was defective. A circuit judge dismissed the case. Appellate Judge Marilyn Kelly of Bloomfield Hills wrote the 3-0 opinion that sent the case back for trial.

"You and I know," said Gou-

gon, "the real cause of the injury was not wearing a face mask and not using reasonable judgment. But not even to take responsibility for a stupid act, we can pass that off on product liability . . . and collect on that."

Sen. Gary Peters, D-Bloomfield Township, said Republicans failed to show there was a general problem in Michigan and relied solely on anecdotes. His dissent was joined by Smith and George Z. Hart of Dearborn.

"Folks will remember the Ford Pinto with the exploding gas tank," said Peters — "27 deaths, 24 serious burn injuries. . . It all could have been prevented for \$11 per car. The outrageous part is the Ford Motor Co. knew very well there were probably some problems with that gas tank, but they did not worry because it met government standards," a defense under SB 344. "But government standards at the time dealt only with front-end collisions, not back-end collisions."

Peters said the manufacturer of the Dalkon shield intrauterine device may have escaped 300,000 claims under the "sophisticated user" defense in SB 344.

"And the reason (baby) pajamas have flame retardant material on them is because of a lawsuit," Peters said, concluding: "Michigan can be a dumping ground for defective products from around the world, whether they're from Taiwan, Dominican Republic or Hong Kong" because of the strong legal defenses given manufacturers.

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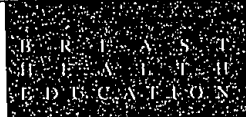
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