**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3352**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Bernstein

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Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Workers' Comp settlement agreements

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/18/2018 House Prefiled

12/18/2018 House Referred to Committee on **Labor, Commerce and Industry**

1/8/2019 House Introduced and read first time ([House Journal‑page 207](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 207](file:///h:\hj\20190108.docx))

1/15/2019 House Member(s) request name added as sponsor: Bernstein

1/16/2019 House Member(s) request name added as sponsor: McCravy

1/17/2019 House Member(s) request name removed as sponsor: McCravy

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**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3352_20181218.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 42‑17‑15 SO AS TO PROVIDE WORKERS’ COMPENSATION SETTLEMENT AGREEMENTS ARE UNENFORCEABLE TO THE EXTENT THAT THEY ARE CONDITIONED UPON THE RELEASE OF CERTAIN LEGAL CLAIMS BY THE INJURED EMPLOYEE OR HIS DEPENDENTS; AND TO PROVIDE THE OFFER OF SETTLEMENT AGREEMENTS THAT INCLUDE SUCH CONDITIONS CONSTITUTES BAD FAITH PER SE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 17, Title 42 of the 1976 Code is amended by adding:

“Section 42‑17‑15. (A) A settlement agreement as to compensation between and employer and an injured employee or his dependents provided in Section 42‑17‑10 is void and unenforceable to the extent that the injured employee or his dependents agree to dismiss, release and forever discharge complaints, liabilities, obligations, promises, agreements, controversies, claims for attorney’s fees, damages, actions, causes of actions, suits, rights, demands, costs, losses, debts, and expenses, known or unknown, suspected or unsuspected, which the injured employee or his dependents have, own, or hold against the employer up to the date of the release including, but not limited to:

(1) claims of unlawful employment discrimination arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 et seq., the Age Discrimination and Employment Act of 1990, the Employee Retirement Income Security Act (ERISA) of 1974, as amended, the Consolidated Omnibus Budget Reconciliation Act (COBRA), the Family Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), the Older Workers Benefit Protection Act (OWBPA), the Equal Pay Act (EPA), the Fair Labor Standards Act (FLSA), as amended, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA);

(2) claims for disability and other forms of discrimination or harassment under applicable state or federal antidiscrimination and civil rights laws, claims for retaliation or discrimination under the workers’ compensation law, torts of any kind, including, but not limited to, misrepresentation, negligent or otherwise, fraud, defamation, liable, battery, assault, slander, claims for intentional or negligent infliction of emotional distress, interference with an advantageous business relationship, negligent hiring, negligent retention, interference with contractual relations, breach of covenant of good faith and fair dealing, termination of employment in violation of public policy, breach of employment contract, expressed or implied, nonpayment of wages, overtime, bonus, or other compensation or benefits, or invasion of privacy;

(3) claims or rights under state and federal whistleblower legislation; and

(4) other claims, losses, injuries, or damages resulting from, arising out of, or connected directly or indirectly with the employment with the employer including, but not limited to, claims for damages, salary, wages, compensation, monetary relief, employment benefits including, but not limited to, any claims for benefits under an employee benefit plan or any retirement plan, profit sharing, capital stock, bonuses, merit and longevity increases, and all other benefits of any kind, earnings, back pay, front pay, liquidated and other damages, compensatory damages, punitive damages, damages to character, damage to reputation, emotional distress, mental distress, depression, injury, impairment in locating employment, financial loss, home foreclosure, pain and suffering, being made whole, injunctive and declaratory relief, interest, or attorney’s fees and costs arising from the injured employee’s employment.

(B) The offer of a settlement agreement as to compensation that includes any of the prohibited dismissal, release, or discharge conditions enumerated in subsection (A) constitutes bad faith per se.”

SECTION 2. This act takes effect upon approval by the Governor.

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