



# Oklahoma State Medical Association

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## PRESS RELEASE

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### **The Sooner Back Flip Oklahoma loses to Texas – again.**

For a case study in the political power of trial lawyers, consider Oklahoma. The public wants tort reform, the state Legislature wants it, and even Democratic Governor Brad Henry claims to want it. Yet that didn't stop Mr. Henry from recently vetoing an impressive reform bill at the urging of his plaintiff lawyer funders.

Oklahoma sure needs something. The state is 38th on the U.S. Chamber of Commerce's rankings of state liability systems. It suffers badly in comparison to neighboring Texas, which has used its sweeping 2003 tort reform to lure business across the border. Malpractice premiums are high, and rural areas in Oklahoma report shortages of such specialty doctors as obstetricians.

The good news is that Oklahomans understand the trouble and want change. A public furor erupted in 2003, when former state Senate leader Stratton Taylor -- a partner in a personal injury law firm -- was caught inviting trial lawyers unhappy with the Texas tort reform to sue in Oklahoma. Tort reform has since become a top election issue.

The issue helped Republicans draw even with Democrats in the state Senate in 2006 for the first time in history. It also helped state Senator Susan Paddock prevail in a Democratic primary runoff against a favorite of the trial bar. Last month Ms. Paddock became the sole Democrat to break Senate ranks and pass comprehensive tort reform on a 25-23 vote.

The bill's reforms included a stricter definition of "frivolous" lawsuits, a cap on pain and suffering awards, new standards for expert witnesses and the elimination of joint and several liability. Most impressive, it would have required anyone who wanted to join a class-action lawsuit to sign an agreement to actually be represented by an attorney. The bill would have gone a long way toward making Oklahoma a far more welcoming place for new business and job creation.

Mr. Henry has been claiming to support reform for three years, and at one point he promised to "out Texas" Texas on the issue. Then again, Mr. Henry is himself an attorney and was elected with the help of trial bar donations. He may also have assumed he'd never have to act on his promises because a heretofore Democratic Senate could always be counted on to kill any reform.

Well, Mr. Henry has now shown his untrue colors. As soon as the Senate passed the bill, Democrats and the plaintiffs bar dug in. Democratic Attorney General Drew Edmondson issued a hastily written opinion saying the legislation would make it harder to prevent pollution in the state. Trial lawyers took their usual line, claiming many provisions were "unconstitutional." Mr. Henry used all of this malarkey as an excuse to veto the bill. Even for a politician, this was an impressive back flip with a twist off the high bar.

Mr. Henry says he wants to work out a compromise, but he delayed his veto long enough to give the Legislature little time in this session. Meanwhile, what he wants the Legislature to abandon is the heart of the bill, including the cap on economic damages. What he says he'll accept isn't even "Texas lite."

Having won re-election last year, Mr. Henry now faces no electoral pressure to stick to his campaign promises. But we hope Oklahomans keep reminding him that his double cross is hurting everyone who wants to do business in their state.

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