

By: Representative Howell

To: Judiciary A

## HOUSE BILL NO. 506

1 AN ACT TO CREATE THE COMMON SENSE SCIENTIFIC AND TECHNICAL  
2 EVIDENCE ACT; TO PROVIDE FOR THE ADMISSIBILITY OF EXPERT OPINION  
3 TESTIMONY; TO SPECIFY INTERPRETATION GUIDELINES; AND FOR RELATED  
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** This act may be known and cited as the "Common  
7 Sense Scientific and Technical Evidence Act."

8 **SECTION 2.** (1) **Expert Testimony.** Testimony in the form of  
9 an opinion concerning a scientific, technical or other specialized  
10 matter may be admitted, but only if the court determines that the  
11 opinion:

12 (a) Is based on scientific knowledge, where the opinion  
13 purports to be scientific, including medical, or technical or  
14 specialized knowledge, where the opinion purports to involve  
15 knowledge from other technical or specialized disciplines;

16 (b) Will assist the trier of fact to understand the  
17 evidence or to determine a fact in issue; and

18 (c) Is presented by a witness who is qualified as an  
19 expert.

20 (2) **Scientific, Technical or Other Specialized Knowledge.**

21 In determining whether an opinion is based on scientific,  
22 technical or other specialized knowledge, and hence sufficiently  
23 reliable to warrant its admission, the court shall consider, among  
24 other factors, whether the opinion follows from or is based on:

25 (a) A theory or methodology developed in accordance  
26 with the scientific method, including, where appropriate,  
27 publication in the peer-reviewed literature, or such other  
28 systematic method of acquiring knowledge that is generally



accepted in the relevant discipline to ensure reliability and validity;

(b) The theory or methodology or the relevant techniques based on that theory or methodology and underlying the opinion have a sufficiently low error rate to ensure reliability, or the experimental results underlying the theory or methodology have been replicated by different laboratories and different researchers; and

(c) The theory, methodology or opinion, as the case may be, is generally accepted in the relevant scientific, technical or other community.

(3) **Assisting Trier of Fact.** An opinion will assist the trier of fact to understand the evidence or to determine a fact in issue, if and only if the court determines the following:

(a) The relationship between the opinion and the supporting theory and experiments is sufficiently close and congruent so as not to render the opinion speculative; and

(b) The opinion may be validly and reliably drawn from the theory.

(4) **Expert Witness.** (a) A witness with knowledge, skill, experience, training or education in a particular field may testify as an expert with respect to that particular field.

(b) Notwithstanding the above, the testimony of an expert witness may not be admitted if the witness is entitled to receive any compensation contingent on the outcome of any claim or case with respect to which the testimony is being offered.

**SECTION 3.** In interpreting and applying this act, the courts of this State shall be guided by the opinions of the Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), *General Electric v. Joiner*, 522 U.S. 136 (1997), and *Kumho Tire Co. Ltd. v. Carmichael*, 526 U.S. 137 (1999).



60           **SECTION 4.** This act shall take effect and be in force from  
61 and after July 1, 2002, and shall apply to all trials commencing  
62 on or after that date.

