

HB 391

2011

1 A bill to be entitled
2 An act relating to expert testimony; amending s. 90.702,
3 F.S.; providing that a witness qualified as an expert may
4 testify as to the facts at issue in a case under certain
5 circumstances; requiring the courts of this state to
6 interpret and apply the specified provisions relating to
7 expert testimony in conformity with specified United
8 States Supreme Court decisions; amending s. 90.704, F.S.;
9 prohibiting disclosure of facts or data that are otherwise
10 inadmissible by an expert absent a finding that their
11 probative value in assisting the jury to evaluate the
12 expert's opinion substantially outweighs their prejudicial
13 effect; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 90.702, Florida Statutes, is amended to
18 read:

19 90.702 Testimony by experts.—

20 (1) If scientific, technical, or other specialized
21 knowledge will assist the trier of fact in understanding the
22 evidence or in determining a fact in issue, a witness qualified
23 as an expert by knowledge, skill, experience, training, or
24 education may testify about it in the form of an opinion or
25 otherwise if:

26 (a) The testimony is based upon sufficient facts or data;

27 (b) The testimony is the product of reliable principles
28 and methods; and

HB 391

2011

29 (c) The witness has applied the principles and methods
30 reliably to the facts of the case; ~~however, the opinion is~~
31 ~~admissible only if it can be applied to evidence at trial.~~

32 (2) The courts of this state shall interpret and apply the
33 requirements of subsection (1) and s. 90.704 in accordance with
34 Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579
35 (1993); General Electric Co. v. Joiner, 522 U.S. 136 (1997);
36 Kumho Tire Co., Ltd. v. Carmichael, 526 U.S. 137 (1999); and
37 Weisgram v. Marley Co., 528 U.S. 440 (2000). Frye v. United
38 States, 293 F. 1013 (D.C. Cir. 1923) and subsequent Florida
39 decisions applying or implementing Frye shall no longer apply to
40 subsection (1) or s. 90.704.

41 Section 2. Section 90.704, Florida Statutes, is amended to
42 read:

43 90.704 Basis of opinion testimony by experts.—The facts or
44 data upon which an expert bases an opinion or inference may be
45 those perceived by, or made known to, the expert at or before
46 the trial. If the facts or data are of a type reasonably relied
47 upon by experts in the subject to support the opinion expressed,
48 the facts or data need not be admissible in evidence. Facts or
49 data that are otherwise inadmissible shall not be disclosed to
50 the jury by the proponent of the opinion or inference unless the
51 court determines that their probative value in assisting the
52 jury to evaluate the expert's opinion substantially outweighs
53 their prejudicial effect.

54 Section 3. This act shall take effect July 1, 2011.