



1 A bill to be entitled

2 An act relating to expert testimony; amending s.  
3 90.702, F.S.; providing that a witness qualified as an  
4 expert by knowledge, skill, experience, training, or  
5 education may testify in the form of an opinion as to  
6 the facts at issue in a case under certain  
7 circumstances; requiring the courts of this state to  
8 interpret and apply the principles of expert testimony  
9 in conformity with specified United States Supreme  
10 Court decisions; subjecting pure opinion testimony to  
11 such requirements; amending s. 90.704, F.S.; providing  
12 that facts or data that are otherwise inadmissible in  
13 evidence may not be disclosed to the jury by the  
14 proponent of the opinion or inference unless the court  
15 determines that the probative value of the facts or  
16 data in assisting the jury to evaluate the expert's  
17 opinion substantially outweighs the prejudicial effect  
18 of the facts or data; providing an effective date.

19  
20 WHEREAS, the Supreme Court of the United States in Daubert  
21 v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993)  
22 replaced the standard for expert testimony in all federal courts  
23 that was first articulated in Frye v. United States, 293 F.2d  
24 1013 (D.C. Cir 1923) with a new standard that is known as the  
25 Daubert standard, and

26 WHEREAS, the United States Supreme Court has subsequently  
27 reaffirmed and refined the Daubert standard in the cases of  
28 General Electric Co. v. Joiner, 522 U.S. 136 (1997) and Kumho



29 | Tire Co. v. Carmichael, 526 U.S. 137 (1999), and

30 |       WHEREAS, Florida's Evidence Code is generally patterned  
31 | after the Federal Rules of Evidence,

32 |       WHEREAS, Rule 702 of the Federal Rules of Evidence,  
33 | applicable to all federal courts, was amended in 2000 to reflect  
34 | the holdings in Daubert v. Merrell Dow Pharmaceuticals, Inc.,  
35 | 509 U.S. 579 (1993), General Electric Co. v. Joiner, 522 U.S.  
36 | 136 (1997), and Kumho Tire Co. v. Carmichael, 526 U.S. 137  
37 | (1999), and

38 |       WHEREAS, as result of the 2000 amendment, Rule 702 of the  
39 | Federal Rules of Evidence provides that:

40 |       A witness who is qualified as an expert by knowledge,  
41 | skill, experience, training, or education may testify in the  
42 | form of an opinion or otherwise if:

43 |       (a) The expert's scientific, technical, or other  
44 | specialized knowledge will help the trier of fact to understand  
45 | the evidence or to determine a fact in issue;

46 |       (b) The testimony is based on sufficient facts or data;

47 |       (c) The testimony is the product of reliable principles  
48 | and methods; and

49 |       (d) The expert has reliably applied the principles and  
50 | methods to the facts of the case, and

51 |       WHEREAS, by amending s. 90.702, Florida Statutes, to  
52 | pattern it after Rule 702 of the Federal Rules of Evidence as  
53 | amended in 2000, the Florida Legislature intends to adopt the  
54 | standards for expert testimony in the courts of this state as  
55 | provided in Daubert v. Merrell Dow Pharmaceuticals, Inc., 509  
56 | U.S. 579 (1993), General Electric Co. v. Joiner, 522 U.S. 136



57 (1997), and Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999),  
 58 and to no longer apply the standard in Frye v. United States,  
 59 293 F.2d 1013 (D.C. Cir 1923) in the courts of this state, and

60 WHEREAS, by amending s. 90.702, Florida Statutes, the  
 61 Florida Legislature intends to prohibit in the courts of this  
 62 state pure opinion testimony as provided in Marsh v. Valyou, 977  
 63 So.2d 543 (Fla. 2007), NOW, THEREFORE,

64

65 Be It Enacted by the Legislature of the State of Florida:

66

67 Section 1. Section 90.702, Florida Statutes, is amended to  
 68 read:

69 90.702 Testimony by experts.—If scientific, technical, or  
 70 other specialized knowledge will assist the trier of fact in  
 71 understanding the evidence or in determining a fact in issue, a  
 72 witness qualified as an expert by knowledge, skill, experience,  
 73 training, or education may testify about it in the form of an  
 74 opinion or otherwise, if:

75 (1) The testimony is based upon sufficient facts or data;

76 (2) The testimony is the product of reliable principles  
 77 and methods; and

78 (3) The witness has applied the principles and methods  
 79 reliably to the facts of the case; however, the opinion is  
 80 ~~admissible only if it can be applied to evidence at trial.~~

81 Section 2. Section 90.704, Florida Statutes, is amended to  
 82 read:

83 90.704 Basis of opinion testimony by experts.—The facts or  
 84 data upon which an expert bases an opinion or inference may be



HB 7015, Engrossed 1

2013

85 those perceived by, or made known to, the expert at or before  
86 the trial. If the facts or data are of a type reasonably relied  
87 upon by experts in the subject to support the opinion expressed,  
88 the facts or data need not be admissible in evidence. Facts or  
89 data that are otherwise inadmissible may not be disclosed to the  
90 jury by the proponent of the opinion or inference unless the  
91 court determines that their probative value in assisting the  
92 jury to evaluate the expert's opinion substantially outweighs  
93 their prejudicial effect.

94 Section 3. This act shall take effect July 1, 2013.