



The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR SHELLY HETTLEMAN
SB 1042 – CIVIL ACTIONS – STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION

A SLAPP suit, which stands for Strategic Lawsuit Against Public Participation is intended to shut down free speech by someone who has made a public statement before a public body or a citizen who has spoken out about an issue or provided a review or criticized a powerful public figure. It is intended to silence, inflict financial damage, and intimidate. This bill would assist the defendant in such a lawsuit and make it more difficult for plaintiffs to exert their power in wearing down the defendant.

The bill clarifies that our SLAPP statute extends speech beyond just those before governmental entities to include online and blog reviews, letters to the editor, and other venues commonly used by community members to share thoughts and ideas and to assist the community in choosing goods and services in the marketplace. (Section (A)(3))

The bill makes a number of very important improvements to our current SLAPP statute:

- 1) It eliminates the requirement that a plaintiff demonstrate “bad faith” in bringing forth the suit. This was a unique provision in our law that proved difficult and costly, requiring extensive discovery. The current bill requires focus on a meritless complaint. (Section (A)(3) and (E)(2))
- 2) It enables attorneys’ fees to be shifted, providing a deterrent to a deep-pocketed plaintiff. (Section (E)(4))
- 3) It requires courts to act promptly and hold discovery until there are expeditious rulings. (Section (E)(1) & (2))

It’s important to note that none of these changes to current law would serve as a chilling effect to legitimate lawsuits since expedited procedures would weed out meritorious claims efficiently.

The bill was amended by the House and includes provisions to make explicit that communication to a government official is included (Section (A)(3)(4)). We will offer another clarifying amendment to ensure that certain commercial speech does not qualify under the

SLAPP statute, enabling appropriate suits over product liability and deceptive trade to remain outside the SLAPP scope:

The revised language would replace p. 3, lines 8-15

(2) THE LAWSUIT INVOLVES:

(I) A DEFENDANT WHO PRIMARILY ENGAGES IN THE BUSINESS OF SELLING OR LEASING GOODS OR SERVICES, INCLUDING INSURANCE, SECURITIES, OR FINANCIAL INSTRUMENTS; AND

(II) THE STATEMENTS OR CONDUCT AT ISSUE IN THE LAWSUIT CONSISTED OF REPRESENTATIONS OF FACT ABOUT THE DEFENDANT'S OR A BUSINESS COMPETITOR'S BUSINESS OPERATIONS, GOODS, OR SERVICES:

- (1) FOR THE PURPOSE OF OBTAINING APPROVAL FOR, PROMOTING, OR SECURING SALES OR LEASE OF OR COMMERCIAL TRANSACTIONS IN THE DEFENDANT'S GOODS OR SERVICES; OR
- (2) IN THE COURSE OF DELIVERING THE DEFENDANT'S GOODS OR SERVICES IS ALLEGED TO HAVE MADE A STATEMENT OR ENGAGED IN CONDUCT THAT DISPARAGES A BUSINESS COMPETITOR'S BUSINESS OPERATIONS, GOODS, OR SERVICES