



**LEGISLATIVE POSITION:**

**Unfavorable**

**Senate Bill 538**

**Civil Actions - Noneconomic Damages - Personal Injury and Wrongful Death**

**House Judiciary Committee**

**Wednesday, March 27, 2024**

Dear Chairman Clippinger and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

As amended, Senate Bill 538 seeks to increase the current cap on noneconomic damages in civil actions in specified personal injury or wrongful death incidents by 90% - nearly doubling the current cap. This legislation also would raise the annual escalator from \$15,000 to \$20,000, imposing another overnight increase of 33%. The Maryland Chamber of Commerce is deeply concerned about the negative impact this bill would have on employers and their employees. **For employers, they will see their property and casualty insurance rates increase due to the greater liability exposure this higher limit on noneconomic damages will bring.** This is especially problematic for small businesses with razor-thin revenue margins. **For both employers and employees, they will see their healthcare costs rise as a product of physicians and hospitals passing along their increased premium rates to patients.** This cost will be even more burdensome with the consistently rising cost of insurance premiums.

Higher liability risks would result in spikes in insurance rates, forcing companies to raise prices, cut costs like employee wages and benefits or potentially move out of state. Higher caps on noneconomic damages also will mean larger payouts in lawsuits, which increases the risk for insurance companies, making the entire insurance pool riskier. Those companies will in turn raise premiums for liability coverage to account for their higher potential payouts, passing the additional costs onto policyholders - both businesses and individuals. The National Association of Insurance Commissioners found that premium rates were lower in states that regulated the amount of noneconomic damages.<sup>1</sup>

In the fiscal note for similar legislation introduced in the 2020 Legislative Session that would have lifted limitations on noneconomic damages, Maryland's Department of Legislative Services indicated that, "Under this bill, liability risk for small businesses, including health care providers, significantly increases." In the fiscal note for this legislation introduced in the 2023 Legislative Session, the fiscal note included that the bill would have meaningful impact on small businesses that are parties to civil actions. If passed, SB 538 could lead to more frequent excessive verdicts

for a wide range of businesses and nonprofit organizations, along with lengthy appeals. With Maryland's consumers already struggling to adjust in this historic and prolonged inflation crisis, continuing to increase the cost of doing business in Maryland will devastate our small business community and deliver worse outcomes for our most vulnerable communities.

Maryland's current limits on noneconomic damages in personal injury and wrongful death cases contribute to a predictable and stable business and healthcare environment.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **SB 538**.

<sup>1</sup> NAIC, *Profitability by Line by State, various reports*

