

SAY NO TO SB 538:




Preserve Maryland's Non-Economic Damages Cap Levels






WHY IT MATTERS

A non-economic damage cap was first enacted in Maryland in 1986 at \$350,000. This cap has been adjusted over the years by the annual escalator. Maryland chose to cap non-economic damages because pain and suffering are difficult to quantify, and putting a reasonable cap on damages is the best public policy to balance the need for recovery for these injuries with the avoidance of excessive awards.

THE FACTS

-  Non-economic damages are damages that may be awarded for pain and suffering in negligence actions. In Maryland, these damages are capped at \$935,000, and they go up each year by \$15,000.
-  Many states have caps on non-economic damages, and Maryland's cap is already one of the highest in the nation.
-  In its current form, SB 538 would create a whopping increase to Maryland's non-economic damages cap to \$1,750,000, nearly a 90% overnight increase above the current cap. The bill imposes another overnight increase of 33% to the annual escalator, from \$15,000 to \$20,000.

WHAT WOULD SB 538 MEAN FOR MARYLANDERS?

-  If enacted, SB 538 would increase insurance costs for consumers and businesses, as demonstrated by a comparison of similar non-economic damage cap information, data, and studies compiled by the National Association of Insurance Commissioners (NAIC). Additionally, the NAIC found that premium rates were lower in states that capped the amount of non-economic damages.
-  If enacted, SB 538 would lead to a significant increase in claims and lawsuit filings, driving up the costs of defense, settlement and claims administration that will ultimately be passed on to consumers.
-  If enacted, SB 538 would lead to impediments in reaching reasonable settlements, since plaintiffs' lawyers will demand significantly higher amounts for immeasurable harm as they hold out for the chance of a jackpot verdict.

BOTTOM LINE

This legislation would only benefit the plaintiffs' lawyers because a cap increase produces the same nearly 90% increase in their attorneys' fees, which are based on a percentage of the damages recovered. **This profound increase has no basis or rationale and will make Maryland an extreme outlier among states with caps.**

continued

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WHAT CAN YOU DO?

Stand with hardworking Marylanders and say NO to SB 538! For the reasons stated, an overnight increase to the cap of nearly 90% to \$1,750,000 as well as the overnight 33% increase to the annual escalator are excessive, unfounded, and should be rejected.

There is no basis or justification for arbitrarily raising the cap to \$1,750,000. Adjusting the cap for the actual amount of inflation that has occurred since it was set in 1994 would move it up to \$1,020,000. If the cap on non-economic damages needs to be adjusted at all, it should only be adjusted to reflect actual inflation, which would be \$1,020,000, and under no circumstances exceeding \$1,100,000.

\$1,750,000



The following groups strongly oppose SB 538

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| Allegany County Chamber of Commerce | Maryland/Metropolitan Transportation Builders & Materials Association |
| American Tort Reform Association | Maryland Motor Truck Association |
| American Property Casualty Insurance Association | MD Section of the American College of Obstetricians and Gynecologists |
| Baca Chiropractic Services | MedChi, The Maryland State Medical Society |
| Big I Maryland Association for Independent Agents | Medical Mutual Liability Insurance Society of Maryland |
| Calvert County Chamber of Commerce | Medical Professional Liability Association |
| Crow Entertainment | Montgomery County Chamber of Commerce |
| Cybersecurity Association of MD, Inc. | National Association of Mutual Insurers |
| Frederick County Chamber of Commerce | NFIB |
| Greater Baltimore Chamber of Commerce | Northern Anne Arundel County Chamber of Commerce |
| Greater Ocean City Chamber of Commerce | Professional Advocate Insurance Company |
| Hampton Inn by Hilton | Salisbury Area Chamber of Commerce |
| Idea Solutions | The Doctors Company |
| MBS Keystone | Washington County Chamber of Commerce |
| Maryland Building Industry Association | Worcester County Chamber of Commerce |
| Maryland Chamber of Commerce | |
| Maryland Employers for Civil Justice Reform Coalition | |
| Maryland Hospital Association | |