

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 743 (Senator Smith)
Judicial Proceedings

Civil Actions - Maryland Transit Administration - Limitation of Tort Liability

This bill limits the liability of the Maryland Transit Administration (MTA) in a tort action to \$400,000 to a single claimant for injuries arising from a single incident or occurrence.

Fiscal Summary

State Effect: Significant decrease in Transportation Trust Fund (TTF) expenditures on tort liability awards and insurance coverage, as discussed below. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Current Law:

Liability Limits

While most State agencies are covered by the liability limits of the Maryland Tort Claims Act (MTCA), MTA's tort liability is governed by the Transportation Article. Unlike MTCA, the Transportation Article does not include a limit on liability.

Among other provisions, MTCA limits State liability to \$400,000 to a single claimant for injuries arising from a single incident or occurrence. However, for claims arising on or after July 1, 2022, if liability of the State or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer,

the following limits on liability apply: (1) the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and (2) in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed \$1,335,000, regardless of the number of claimants or beneficiaries who share in the award. If the liability of the State or the State's units arises under a claim of child sexual abuse, the liability may not exceed \$890,000 to a single claimant for injuries arising from an incident or occurrence.

Damages

There is no cap on economic damages or punitive damages in Maryland. However, there are caps on noneconomic damages. "Noneconomic damages" means (1) for personal injury actions – pain, suffering, inconvenience, physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury and (2) for wrongful death actions – mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, care, marital care, parental care, filial care, attention, advice, counsel, training, guidance, or education, or other noneconomic damages authorized under specified statutes pertaining to wrongful death causes of action. "Noneconomic damages" does not include punitive damages.

In any action for damages for personal injury or wrongful death (excluding medical malpractice) in which the cause of action arises on or after October 1, 1994, an award for noneconomic damages may not exceed \$500,000. This limitation increases by \$15,000 on October 1 of each year beginning on October 1, 1995. The increased amount must apply to causes of action arising between October 1 of that year and September 30 of the following year, inclusive. (As of October 1, 2025, this cap will be \$965,000.) This limitation applies in a personal injury action to each direct victim of tortious conduct and all persons who claim injury by or through that victim.

In a wrongful death action (excluding medical malpractice) in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed 150% of the limitation listed above, regardless of the number of claimants or beneficiaries who share in the award. (As of October 1, 2025, this cap will be \$1,447,500). The cap applies separately to a wrongful death claim and a survival action. (Thus, the cap for a wrongful death claim involving two or more claimants or beneficiaries accompanied by a survival action is \$2,412,500 as of October 1, 2025.)

State Expenditures: Although a precise estimate cannot be made at this time, the bill significantly decreases TTF expenditures by MTA for liability awards and insurance premiums.

In recent fiscal years, MTA has paid claims of \$12.49 million, with average annual payments of \$4.16 million. MTA self-insures for approximately \$10.0 million per bus accident and \$5.0 million per rail accident. In fiscal 2024, MTA held excess liability coverage with a \$500 million limit, and the premium was \$12.59 million. The bill's liability cap reduces costs for liability insurance premiums, and the amount of excess insurance coverages purchased by the MTA, except for specified rail-related agreements involving the federal government.

According to MTA, the bill's liability cap may also allow it to decrease expenditures on procurements from third-party vendors. MTA currently requires contractors to carry \$5.0 million in liability insurance due to the administration's unlimited liability. A reduction in this insurance requirement may reduce the costs for MTA contracts with these vendors.

Small Business Effect: As noted above, MTA requires contractors to carry \$5.0 million in liability insurance due to the administration's unlimited liability. The cost of obtaining the excess coverage can be a financial burden for MTA's contractors and may limit the parties who are able to bid on MTA's contracts. The bill's liability cap reduces insurance requirements for MTA contracts, which reduces insurance costs for small businesses doing business with MTA and enhances contracting opportunities with MTA for small businesses.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2025
rh/jkb

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510