



Senate Bill 291

Courts - Prohibited Liability Agreements - Recreational Facilities

MACo Position: **SUPPORT**

To: Judiciary Committee

WITH AMENDMENTS

Date: March 29, 2023

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS SB 291 WITH AMENDMENTS**. This bill limits the use of liability waivers for certain commercial recreational facilities. Amendments could better confirm the bill language to this intent and avoid effect on governmental facilities.

According to the advocates, the intent of SB 291 is to eliminate the use of liability waivers for certain for-profit recreational facilities. While not the original intent of the advocates, the use of the term "commercial" within the bill may be interpreted by the courts to also include county programs and facilities. This interpretation could put at risk dozens of county-led programs meant for after school care and youth recreation.

While counties are appreciative of the clarifying amendments added by the sponsors, there is some concern they still do not go far enough. Counties request amendments to specify that the private sector limitations of the bill should not apply to all publicly owned facilities.

Without further clarifying language, SB 291 puts youth and after school care programs at risk, but clarifying language could fully assuage local government concerns. Accordingly, MACo urges the Committee to issue a **FAVORABLE WITH AMENDMENTS** report for SB 291.

AMENDMENTS TO SENATE BILL 291

On page 1, in line 18 strike "COMMERCIAL" and substitute "PRIVATELY OWNED" and on line 19 before "AMUSEMENT ATTRACTION" insert "PRIVATELY OWNED";

On page 2, strike lines 4 through 6, and substitute "**(3) "RECREATIONAL FACILITY" DOES NOT INCLUDE A FACILITY OWNED BY A STATE OR LOCAL GOVERNMENT, INCLUDING WHEN UNDER THE DIRECTION OR OPERATION OF A NONPROFIT AGENCY UNDER CONTRACT WITH THE STATE OR LOCAL GOVERNMENT OWNER.**"