

SB 750 Amendment.pdf

Uploaded by: Paul Corderman

Position: FAV



SB0750/723027/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

08 FEB 24
08:34:29

BY: Senator Corderman
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 750
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, strike “injured or”; in line 6, strike “injure or”; and strike beginning with “establishing” in line 8 down through “employee,” in line 10.

AMENDMENT NO. 2

On page 2, in line 16, after “**(1)**” insert “**(I)**”; in the same line, strike “or killed”; in line 17, strike “or kill”; strike beginning with “or,” in line 17 down through “employee” in line 18; in lines 19 and 20, strike “**(I)**” and “**(II)**”, respectively, and substitute “**1.**” and “**2.**”; in line 19, strike the second set of brackets; in the same line, strike “**AND**”; and after line 20, insert:

“(II) IF A COVERED EMPLOYEE IS KILLED AS THE RESULT OF THE DELIBERATE INTENT OF THE EMPLOYER TO KILL THE COVERED EMPLOYEE, A SURVIVING SPOUSE, CHILD, OR DEPENDENT OF THE COVERED EMPLOYEE MAY:

- 1. BRING A CLAIM FOR COMPENSATION UNDER THIS TITLE; AND**
- 2. BRING AN ACTION FOR DAMAGES AGAINST THE EMPLOYER.”**

On pages 2 and 3, strike in their entirety the lines beginning with line 29 on page 2 through line 2 on page 3, inclusive.

SB 750 Reprint.pdf

Uploaded by: Paul Corderman

Position: FAV

UNOFFICIAL COPY OF SENATE BILL 750

SENATE BILL 750

K1

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By: **Senator Corderman**

Introduced and read first time: February 1, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment - Workers' Compensation - Exceptions to Exclusivity of**
3 **Liability**

4 FOR the purpose of altering the exception to the exclusivity of an employer's liability under
5 workers' compensation law for covered employees who are ~~injured or~~ killed as the
6 result of the deliberate intent of the employer to ~~injure or~~ kill the covered employee;
7 deeming an employer to have acted with deliberate intent under certain
8 circumstances; ~~establishing an exception to exclusivity of liability of an employer~~
9 ~~under workers' compensation law for a covered employee who is killed by another~~
10 ~~employee~~; providing for the retroactive application of this Act; and generally relating
11 to exceptions to the exclusivity of an employer's liability under workers'
12 compensation law.

13 BY repealing and reenacting, with amendments,
14 Article - Labor and Employment
15 Section 9-509
16 Annotated Code of Maryland
17 (2016 Replacement Volume and 2023 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article - Labor and Employment**

21 9-509.

22 (a) Except as otherwise provided in this title, the liability of an employer under
23 this title is exclusive.

2

UNOFFICIAL COPY OF SENATE BILL 750

1 (b) Except as otherwise provided in this title, the compensation provided under
 2 this title to a covered employee or the dependents of a covered employee is in place of any
 3 right of action against any person.

4 (c) (1) If an employer fails to secure compensation in accordance with this title,
 5 a covered employee who has sustained an accidental personal injury, compensable hernia,
 6 or occupational disease or, in case of death, the personal representative of the covered
 7 employee may:

8 (i) bring a claim for compensation under this title; or

9 (ii) bring an action for damages.

10 (2) In an action of a covered employee or personal representative under this
 11 subsection, an employer may not plead as a defense that:

12 (i) the covered employee assumed the risk of employment;

13 (ii) the covered employee was contributorily negligent; or

14 (iii) the negligence of a fellow servant caused the accidental personal
 15 injury, compensable hernia, or occupational disease.

16 (d) ~~(1) (I)~~ If a covered employee is injured ~~or killed~~ as the result of the
 deliberate
 17 intent of the employer to injure ~~or kill~~ the covered employee, the covered employee ~~or, in~~
 18 ~~the case of death, a surviving spouse, child, or dependent of the covered employee~~ may:

19 [(1)] ~~(1) 1. 2.~~
 bring a claim for compensation under this title; ~~for~~ ~~AND~~

20 [(2)] ~~(1) 1. 2.~~
 bring an action for damages against the employer.

(II) IF A COVERED EMPLOYEE IS KILLED AS THE RESULT OF THE DELIBERATE INTENT OF THE EMPLOYER TO KILL THE COVERED EMPLOYEE, A SURVIVING SPOUSE, CHILD, OR DEPENDENT OF THE COVERED EMPLOYEE MAY:

1. BRING A CLAIM FOR COMPENSATION UNDER THIS TITLE;
AND

2. BRING AN ACTION FOR DAMAGES AGAINST THE
EMPLOYER.

21 (2) FOR THE PURPOSE OF PARAGRAPH (1) OF THIS SUBSECTION, AN
 22 EMPLOYER IS DEEMED TO HAVE ACTED WITH DELIBERATE INTENT IF THE
 23 EMPLOYER:

24 (I) ACTED IN A MANNER THAT WAS PREMEDITATED OR
 25 WILLFUL IN CAUSING THE INJURY TO OR DEATH OF THE COVERED EMPLOYEE; OR

26 (II) HAD ACTUAL KNOWLEDGE THAT AN INJURY OR DEATH WAS
 27 SUBSTANTIALLY LIKELY TO OCCUR AND WILLFULLY DISREGARDED THAT
 28 KNOWLEDGE.

29 ~~(E) IF A COVERED EMPLOYEE IS KILLED BY THE INTENTIONAL ACTION OF~~
 30 ~~ANOTHER EMPLOYEE, A SURVIVING SPOUSE, CHILD, OR DEPENDENT OF THE~~
 31 ~~COVERED EMPLOYEE MAY:~~

3

UNOFFICIAL COPY OF SENATE BILL 750

1 ~~(1) BRING A CLAIM FOR COMPENSATION UNDER THIS TITLE; AND~~

2 ~~(2) BRING AN ACTION FOR DAMAGES AGAINST THE EMPLOYER.~~

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
4 apply retroactively and shall be applied to and interpreted to affect a cause of action arising
5 or a workers' compensation claim filed on or after January 1, 2022.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2024.

SB 750 Sen Corderman Testimony.pdf

Uploaded by: Paul Corderman

Position: FAV

PAUL D. CORDERMAN
Legislative District 2
Frederick and Washington Counties

Budget and Taxation Committee

Subcommittees

Capital Budget

Education, Business and Administration



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 5, 2024

Senate Finance Committee
Chair Pamela Beidle
Vice Chair Katherine Klausmeier
3 East Miller Senate Office Building
Annapolis, MD 21401

**Testimony in Support of Senate Bill SB 750 – Labor & Employment – Workers’ Compensation –
Exceptions to Exclusivity of Liability**

Chair Beidle, Vice Chair Klausmeier, and Members of the Committee,

Thank you for the opportunity to present SB 750. In June of 2022, the Washington County Community suffered a tragic loss when Mark Alan Frey, Charles Edward Minnick, and Joshua Robert Wallace were gunned down and murdered at their workplace by a disgruntled employee. The shooter fled the scene, only to be apprehended following a shootout with Maryland State Police Officers where State Police Detective Sergeant Phillip Martin was shot and wounded.

Fast forward to April of 2023. The families of the three murder victims were informed that this killer would not receive any prison time for his confessed crimes. Instead, he was deemed not criminally responsible for his actions and as such, would be committed to Clifton T. Perkins Psychiatric Hospital. The victims’ families were then advised that if this murderer was found to no longer be a threat or a danger to himself or others, he could be eligible for release without any rehabilitation in a state correctional facility.

The families of the victims feel that there were plenty of alarming and disturbing warning signs leading up to this horrific incident. Additionally, they feel that the leadership of Columbia Machine did not do enough to prevent this from happening when concerns were brought forth. Workplace negligence was suspected.

SB 750 if passed would allow a surviving spouse, child or dependent of a deceased employee to bring a claim for compensation and bring an action for damages against the employer if the covered employee is killed as the result of suspected deliberate intent. In this very tragic situation, the families of the victims deserve to bring their concerns before the Judiciary and have a Judge determine the validity of those claims.

Thank you for your consideration and I respectfully ask for a favorable report on SB 750.

Sincerely,

A handwritten signature in blue ink, appearing to read "P.D. Corderman".

Paul D. Corderman

District 2 – Washington & Frederick Counties

SB 750_MDCC_Workers' Compensation-Exceptions to Ex

Uploaded by: Andrew Griffin

Position: UNF



LEGISLATIVE POSITION:

UNFAVORABLE

Senate Bill 750

Labor and Employment–Workers’ Compensation–Exceptions to Exclusivity of Liability

Senate Finance Committee

Tuesday, March 5, 2024

Dear Chairwoman Beidle and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce (the Chamber) 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 growth and recovery for Maryland businesses, employees, and families.

Senate Bill 750 would upend Maryland’s workers’ compensation system by allowing a covered employee, of the employee’s beneficiaries, to both file a claim for workers’ compensation **and** sue the employer for damages when the covered employee is injured or killed. Further, the bill is retroactive in nature going back to claims filed on or after January 1, 2022. This opens employers up to additional workers’ compensations claims and costs that in some cases may have already been settled.

Current statute already allows an employee to bring a civil suit against employers for a deliberate act, or they can file a workers’ compensation claim. SB 750 would instead allow for double recovery. Statute also already allows for civil suits against co-employees, as a third-party claim. SB 750 opens this up even further by allowing for civil suits against the employer for the acts of a co-employee. SB 750 also contains an overly broad definition of what constitutes a “deliberate act.”

The purpose of the workers’ compensation statute is to provide a balance between the interests of the injured workers, the employers, and the public to create a system that is “no fault” with statutory limits on recovery. Expanding exposure for employers to civil suits is antithetical to this agreement and unfairly tilts the balance of the system.

For these reasons, the Chamber respectfully requests an **unfavorable report** on SB 750.

SB 0750 – Workers' Compensation - Exceptions to Ex

Uploaded by: Danna Blum

Position: UNF



February 14, 2024

Senate Finance Committee
Senator Pamela Beidle
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: SB 0750 – Workers' Compensation - Exceptions to Exclusivity of Liability – Oppose as written

Dear Senator Beidle:

SB 0750 seeks to remove the exclusive liability clause under Maryland's Workers Compensation statute. This would allow the families of employees killed on the job/in the workplace to seek civil damages beyond any compensation received through workers' compensation in cases where the employer showed "deliberate intent".

The definition of "deliberate intent" is problematic. It would mean if the employer acted with in a manner that was premeditated, or willful in causing the injury or death; or had actual knowledge that an injury or death was substantially likely to occur and willfully disregarded that knowledge. If an employee is killed by the intentional act of another employee, a spouse/child/other dependent may bring actions against the employer for damages.

This change would virtually force businesses to have on site a mental health professional who is qualified to assess the intent of any particular employee who may act "suspiciously". Employers would be put into an untenable position for many reasons under this scenario. One such situation would be the risk of violating other laws (ADA, other anti-discrimination laws). An employee cannot "regard" someone as having a disability (mental illness in this case) and then take negative employment action against that employee. This leaves employers in a damned if they do, and damned if they don't conundrum.

Furthermore, it is highly likely that business liability insurance costs will rise along with the increased risk of being held financially responsible for the unpredictable actions of an employee.

Current Maryland law requires the employer's "actual, specific and deliberate intent to injure the employee" (Johnson v. Mountaire, Farms of Delaware, 503 A.2d 708 (1986) in order for the exclusivity rule to be overridden.



The Carroll County Chamber of Commerce, a business advocacy organization of nearly 700 members, opposes this bill as it is written. We therefore request that you give this bill an unfavorable report.

Sincerely,

A handwritten signature in black ink that reads "Mike McMullin".

Mike McMullin
President
Carroll County Chamber of Commerce

CC: Delegate April Rose
Senator Justin Ready

SB 750 - Chesapeake-IWIF Testimony.pdf

Uploaded by: Lyndsey Meninger

Position: UNF



Senate Finance Committee
March 5, 2024

Testimony of Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund in Opposition to Senate Bill 750

Senate Bill 750 seeks to alter the exclusivity of an employer's liability under workers' compensation law for covered employees injured or killed as the result of the deliberate intent of the employer to injure or kill a covered employee. For the foregoing reasons, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund respectfully oppose Senate Bill 750.

Section 9-509 of the Labor and Employment Article provides the bedrock of Maryland's workers' compensation system; that is, employers are immune from civil suit for work related injuries as the provision of workers' compensation benefits are an injured worker's sole recourse for recovery, regardless of fault. Moreover, employers forfeit all traditional defenses to civil suits such as contributory negligence and assumption of the risk.

Currently, there are two exceptions to this "exclusivity of liability": first, employers failing to carry workers' compensation insurance can be sued in lieu of providing workers' compensation benefits and, second, employees intentionally harmed by employers can sue in lieu of receiving workers' compensation benefits. Senate Bill 750 alters Section 9-509's framework by allowing injured workers both causes of action, namely a civil suit and a workers' compensation claim. Senate Bill 750, therefore, upends years of workers' compensation law by undoing the grand bargain between employers and employees that both provides compensation for employees regardless of fault, while also limiting an employer's overall liability. Moreover, current law allows, in the circumstances described by Senate Bill 750, employee choice as to how to proceed: workers' compensation claim or a civil suit. This choice allows an injured worker to pick the most beneficial cause of action for the injured worker, while still limiting the employee to one cause of action. Senate Bill 750, therefore, will lead to a slippery slope of further carve-outs in Maryland's workers' compensation system, further eroding the bargain underlying the workers' compensation system.

Lastly, Senate Bill 750's inclusion of section (E) is unnecessary as covered by current Section 9-101(b)(2) of the Labor and Employment Article, which gives employees a cause of action (a workers' compensation claim) in the situation in which an employee is injured by the intentional act of a fellow employee.

For the foregoing reasons, Chesapeake Employers' Insurance Company and Injured Workers' Insurance Fund respectfully request an unfavorable report on Senate Bill 750.

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ABC_UNFAV_SB0750.pdf

Uploaded by: Martin Kraska

Position: UNF



**Maryland Joint
Legislative Committee**

The Voice of Merit Construction

March 5, 2024

Mike Henderson

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To: Senate Finance Committee
From: Associated Builders & Contractors
RE: SB 750 - Labor and Employment - Workers' Compensation - Exceptions to Exclusivity of Liability
Position: Unfavorable

Associated Builders and Contractors (ABC) represent more than 1500 construction and construction-related companies through its four Maryland chapters. Our members believe in the tenets of free enterprise, investing in their workforce and giving back to the communities in which they live, work and play.

Senate Bill 750 would allow a covered employee, or the employee's beneficiaries, to both file a claim for workers' compensation and sue the employer for damages when a covered employee is injured or killed as the result of the deliberate intent of the employer or when a covered employee is killed by the intentional action of another employee. The bill also establishes circumstances under which an employer must be deemed to have acted with deliberate intent. The bill must be construed to apply retroactively and must be applied to and interpreted to affect a cause of action arising or a workers' compensation claim filed on or after January 1, 2022.

ABC opposes SB 750, which seeks to alter the exception to the exclusivity of an employer's liability under workers' compensation law. While we recognize the importance of ensuring fair and just compensation for injured employees, we believe that the proposed changes would have detrimental effects on employers and the workers' compensation system. The bill's expansion of exceptions to exclusivity undermines the fundamental principle of workers' compensation, which provides a no-fault system designed to efficiently compensate employees for work-related injuries or fatalities. By allowing for exceptions based on subjective interpretations of an employer's intent, the bill introduces uncertainty and legal ambiguity, which could lead to prolonged litigation and increased costs for employers.

Moreover, deeming an employer to have acted with deliberate intent under certain circumstances sets a dangerous precedent that could unjustly penalize employers for accidents or incidents beyond their control. This approach fails to consider the complexities of workplace environments and the myriad factors that contribute to accidents, including human error and unforeseeable circumstances.

ABC appreciates your consideration and, for these reasons, respectfully requests a **unfavorable** report on Senate Bill 750.

*Martin "MJ" Kraska
Government Affairs Director
Chesapeake Shores Chapter*

MD 2024 NAMIC letter SB 750 WC Exclusivity of Liab

Uploaded by: Matt Overturf

Position: UNF

Senate Finance Committee

SB 750: Labor and Employment – Workers’ Compensation – Exceptions to Exclusivity of Liability

UNFAVORABLE | March 5, 2024

Chair Beidle and Members of the Committee:

On behalf of the National Association of Mutual Insurance Companies¹ (NAMIC) thank you for the opportunity to submit this statement to express our opposition to Senate Bill 750 and request an unfavorable report.

NAMIC consists of nearly 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as many of the country’s largest national insurers.

SB 750 authorizes the estate of a deceased employee to bring civil litigation against the employer based on allegations that the worker’s death was the result of an intentional act or omission of the employer or the employer’s gross negligence. By allowing civil actions against employers, SB 750 breaches the exclusive remedy of workers’ compensation and could jeopardize the critical role the workers’ compensation system plays in protecting both employees and employers.

Workers' compensation is the result of a grand bargain between employers and labor to create a no-fault system that provides quick, certain, and equitable indemnity and medical benefits to workers suffering workplace injuries. Prior to the grand bargain of workers' compensation, if a worker was injured in the workplace, he or she would have to file a tort action against the employer and carry his or her burden that the employer's negligence caused the injury. Moreover, the employer could defeat the action by showing the worker's negligence contributed to the injury. Such liability actions were expensive and time consuming, with uncertain outcomes.

In place of such civil actions, the grand bargain of workers' compensation was created. Under the *no fault* workers' compensation system, an injured worker receives indemnity benefits and first-dollar medical care (with no deductibles, co-pays or lifetime limits) for all workplace injuries, regardless of fault, and *even in the absence of any fault* by the employer. Most claims are paid quickly without disputes and without the delay, expense, and uncertainty of litigation.

In return for accepting responsibility for all workplace injuries, even in the absence of any employer fault, the exclusive remedy provision of the law broadly protects the employer from civil litigation.

SB 750 would expand the exception to exclusive remedy beyond these constitutional requirements, instead allowing litigation in many, if not nearly all, of the occupational fatality cases in Maryland. Allowing the

¹ NAMIC member companies write \$357 billion in annual premiums and represent 69 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance markets. Through its advocacy programs NAMIC promotes public policy solutions that benefit member companies and the policyholders they serve and fosters greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.



estate of a deceased worker to file civil actions against the employer would expose Maryland employers to significantly more litigation. In addition, SB 750 would apply retroactively to claims filed on or after January 1, 2022, which is of particular concern because adequate premium has not been obtained to cover these losses which may cause solvency concerns.

NAMIC and our members understand the desire to provide a remedy for occupational deaths. However, we believe the approach embodied in the grand bargain of workers' compensation provides the best system for employers and employees and urge the committee not to expand the exceptions to this system that could threaten its ability to strike this balance.

For these reasons, NAMIC is opposed to Senate Bill 750 and respectfully requests an unfavorable report of the bill.

Sincerely,

Matt Overturf, NAMIC Regional Vice President
Ohio Valley/Mid-Atlantic Region

SB 750_MTBMA_UNF.pdf

Uploaded by: Michael Sakata

Position: UNF



March 5th, 2024

Senator Pam Beidle, Chair
Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

RE: SB 750 – UNFAVORABLE – Labor and Employment – Workers’ Compensation – Exception to Exclusivity of Liability

Dear Chair Beidle and Members of the Committee:

The Maryland Transportation Builders and Materials Association (“MTBMA”) has been and continues to serve as the voice for Maryland’s construction transportation industry since 1932. Our association is comprised of 200 members. MTBMA encourages, develops, and protects the prestige of the transportation construction and materials industry in Maryland by establishing and maintaining respected relationships with federal, state, and local public officials. We proactively work with regulatory agencies and governing bodies to represent the interests of the transportation industry and advocate for adequate state and federal funding for Maryland’s multimodal transportation system.

Senate Bill 750 would amend exceptions to the exclusivity of an employer’s liability under workers’ compensation law for covered employees who are injured or killed as the result of the deliberate intent of the employer to insure or kill the covered employee or for an employee who is killed by another employee.

MTBMA opposes this legislation because the proposed changes to workers’ compensation law could have detrimental effects on both employers and employees in the transportation industry. The bill’s expansion of liability exceptions for intentional harm could create ambiguity and increase legal risks for businesses. This could subject employers to costly lawsuits, even in cases where intent was not present. The provision allowing families of employees killed by another employee to sue the employer for damages introduces a significant burden, particularly in industries where accidents are more common. We urge the reconsideration of these provisions and to work towards solutions that balance the interests of both workers and employers.

We appreciate you taking the time to consider our request for an **UNFAVORABLE** report on Senate Bill 750.

Thank you,

Michael Sakata
President and CEO
Maryland Transportation Builders and Materials Association

SB 1031 Lead SOL APCIA UNF FINAL 030724 JPR .pdf

Uploaded by: Nancy Egan

Position: UNF

Testimony of
American Property Casualty Insurance Association (APCIA)
Senate Judicial Proceedings Committee
SB 1031 Civil Actions – Lead Poisoning – Liability and Statute of Limitations
March 7, 2024

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. Our members write approximately 67.1 percent of all property and casualty insurance sold in Maryland. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 1031.

This bill would eliminate the statute of limitations for actions against the owner or manager of certain property to recover certain damages arising from injuries suffered as a result of lead poisoning may be filed at any time, establishes strict liability and removes the current non-economic caps for this type of action and subjects state governments, local governments and school boards to full damages, exempting such actions from the state tort claims action damage limits.

We oppose the limitless civil litigation proposed in this legislation because civil defendants and those we insure may not receive a reasonable opportunity to defend themselves with the passage of time. This provision *may* apply to claims against any defendant (e.g. property owner, property manager, or a manufacturer/seller/distributor). In addition, this legislation would subject local governments and public schools to the same limitless civil litigation.

This legislation would eliminate the statute of limitation for lead liability actions. The Maryland Supreme Court has repeatedly recognized that statutes of limitations strike a balance and “primarily to assure fairness to defendants on the theory that claims, asserted after evidence is gone, memories have faded, and witnesses disappeared, are so stale as to be unjust.” *Shailendra Kumar, P.A. v. Dhanda*, 426 Md. 185, 205, 43 A.3d 1029 (2012) (quoting *Bertonazzi v. Hillman*, 241 Md. 361, 367, 216 A.2d 723 (1966)). Without statutes of limitation, civil defendants and those we insure may not receive a reasonable opportunity to defend themselves before the passage of time eliminates documents, memories or witnesses.

With its adoption of strict liability for owners or managers of property SB 1031 would eliminate or reduce customary defenses for civil litigants. This strips away well founded elements of tort that seek to have people or businesses pay what they owe based on their own negligence. See e.g., *Medical Mutual Liability Society of Maryland v. B, Dixon Evander and Associates*, 339 Md. 41, 54-55, 660 A.2d 433 (1995) (citations omitted) (emphasis added) Repealing the non-economic damages caps for personal injury cases, which currently exceeds \$935,000 and increases by \$15,000 every year, will also significantly complicate the ability to settle lawsuits, since plaintiffs’ lawyers will demand significantly higher amounts for immeasurable harm. The current law strikes a reasonable balance between unlimited subjective awards and the consistency and predictability that contribute to a stable civil justice system in Maryland. The escalating non-economic personal injury damage caps should be retained. The practical effect of this repeal is to provide yet another avenue for lawyers to seek uncapped and subjective non-economic damage awards, placing businesses, consumers and insurers at greater risk for nuclear verdicts, since non-economic damages have been shown to be the key drivers of nuclear verdicts.¹

¹ *US Chamber of Commerce Nuclear Verdicts Report, September 2022*

For all these reasons, the APCIA urges the Committee to provide an unfavorable report on Senate Bill 1031.

Nancy J. Egan, State Government Relations Counsel, DC, DE, MD, VA, WV

Nancy.egan@APCIA.org Cell: 443-841-4174

Non-economic damages may far exceed the amount of economic damage awards because of intangible factors such as subjective values, beliefs, emotional sensitivities and differing perspectives, and courts and juries often struggle to calculate fair and rational non-economic damage award.

SB 750_MAA_UNF.pdf

Uploaded by: Tim Smith

Position: UNF

CHAIRMAN:
Jeff Graf
VICE CHAIRMAN
David Slaughter

MARYLAND ASPHALT ASSOCIATION



TREASURER:
Paul Bramble
SECRETARY:
Curtis Hall
PRESIDENT:
Tim Smith

March 5th, 2024

Senator Pam Beidle, Chair
Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

RE: SB 750 – UNFAVORABLE – Labor and Employment – Workers’ Compensation – Exception to Exclusivity of Liability

Dear Chair Beidle and Members of the Committee:

The Maryland Asphalt Association (MAA) is comprised of 19 producer members representing more than 48 production facilities, 25 contractor members, 25 consulting engineer firms, and 41 other associate members. MAA works proactively with regulatory agencies to represent the interests of the asphalt industry both in the writing and interpretation of state and federal regulations that may affect our members. We also advocate for adequate state and federal funding for Maryland’s multimodal transportation system.

Senate Bill 750 would amend exceptions to the exclusivity of an employer’s liability under workers’ compensation law for covered employees who are injured or killed as the result of the deliberate intent of the employer to insure or kill the covered employee or for an employee who is killed by another employee.

MAA opposes this legislation because the proposed changes to workers’ compensation law could have detrimental effects on both employers and employees in the transportation industry. The bill’s expansion of liability exceptions for intentional harm could create ambiguity and increase legal risks for businesses. This could subject employers to costly lawsuits, even in cases where intent was not present. The provision allowing families of employees killed by another employee to sue the employer for damages introduces a significant burden, particularly in industries where accidents are more common. We urge the reconsideration of these provisions and to work towards solutions that balance the interests of both workers and employers.

We appreciate you taking the time to consider our request for an **UNFAVORABLE** report on Senate Bill 750.

Sincerely,

Tim Smith. P.E.
President
Maryland Asphalt Association