



LEGISLATIVE POSITION:

Unfavorable

House Bill 128 - Responding to Emergency Needs From Extreme Weather (RENEW) Act of 2025

House Economic Matters Committee

Thursday, January 23, 2025

Dear Chairman Wilson 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 7,000 members and federated partners working to develop and promote strong public policy that ensures sustained economic health and growth for Maryland businesses, employees, and families.

HB 128 establishes the Climate Change Adaptation and Mitigation Program (the Program) in the Department of the Environment, which would serve to secure payments from businesses that derive revenue from fossil fuels or petroleum products. The Program would be used to fund climate change mitigation infrastructure projects, address health impacts of climate change, and impose and collect cost recovery payments on responsible parties. The bill also outlines the total liability will be proportionately divided by “responsible parties.”

The Maryland Chamber has serious concerns over the strict liability, retroactive application, and constitutional issues outlined in this legislation, among many other factors. HB 128 retroactively imposes costs and liability to businesses engaged in the trade or business of extracting fossil fuel or refining crude oil beginning March 21, 1994, violating due process rights and equal protection under the U.S. Constitution. Courts may view the extreme retroactivity as “harsh and oppressive” given that the targeted companies’ actions were lawful. Reaching back over 28 years is extremely harsh and excessive, along with imposing liability on prior activities that were legal.

Additionally, businesses should not be held liable because fossil fuels they extracted or refined were placed into the marketplace and used by a third party. The Chamber urges the committee to consider removing the strict liability and apply this legislation only prospectively to ensure the affected business community has proper notice.

Moreover, the bill potentially violates the “Excessive Fines” Clause and the “Takings” Clause of the U.S. Constitution, which prohibit disproportionate financial burdens on individual entities for costs that should be shared by society as a whole. Signaling out energy producers for penalties while ignoring the economy-sustaining use of that energy is misguided.

Further, the Chamber is concerned that domestic companies will take on greater costs as companies not completely connected to the state, like foreign entities, may argue that they have insufficient connections to Maryland and do not satisfy the nexus requirement of the U.S. Constitution, as outlined in the legislation.

This legislation concludes that one segment of the economy should bear large and excessive costs. Singling out the refining industry, placing a sizeable financial burden on them, and even specific companies for other's use of fossil fuels is inappropriate and tremendously unfair. The bill also fails to recognize that many state and local governments encouraged and approved the production, delivery, and use of these fuels, making it inequitable to retroactively penalize producers for meeting societal needs.

Finally, the payments required by this bill may be preempted by federal law, as greenhouse gas emissions are subject to numerous federal statutory regimes, including the Clean Air Act. These emissions are global in nature, and attempting to regulate them at the state level raises significant federal preemption concerns.

The Maryland Chamber of Commerce urges the committee to not consider passing legislation that retroactively imposes costs and liability during a period when the target companies' actions were lawful. For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report on HB 128.**

