



2026 WRITTEN TESTIMONY

CIVIL ACTIONS - PUNITIVE DAMAGE REWARDS - SURCHARGE

SB871 / HB 906 - FAVORABLE WITH AMENDMENTS

In civil actions based on negligence, compensatory damages are included in the verdict if the jury finds by a preponderance of the evidence that the defendant tortfeasor acted in a way that was unreasonable under the circumstances and that harmed the plaintiff. Compensatory damages are intended to make the plaintiff whole, i.e., to remedy the harm suffered by the plaintiff.

In such cases, most states (but not Maryland) allow juries to include punitive damages in their verdict, if the jury finds by clear and convincing evidence (a higher burden of proof) that the defendant tortfeasor acted with “gross negligence,” i.e., a “wanton and reckless disregard for human life.”[1] Punitive damages are intended to punish such conduct, and to deter others from acting in a similarly reprehensible fashion in the future.

Thirty-four years ago, the Maryland Supreme Court decided that punitive damages no longer are allowed in our State, even when a jury finds by clear and convincing evidence that the defendant tortfeasor acted with “gross negligence.”

Since 1992, more than forty other states throughout the country have continued to use punitive damages to punish and deter reprehensible conduct. **SB871/HB 906 would restore Maryland’s “gross negligence” standard for punitive damages, thereby bringing Maryland back into alignment with the mainstream approach.**

Moreover, SB871/HB 906 would allocate punitive damages between the State and the plaintiff whose litigation uncovered and proved the reprehensible conduct at issue. A 2017 House Workgroup on Punitive Damages found that about ten States similarly allocate punitive damages between the State and the plaintiff. A 50% surcharge, however, is unnecessary and could be amended out of the bill as currently drafted.

Maryland Association for Justice urges a FAVORABLE Report on SB871/HB 906.

[1] Until 1992, the Supreme Court of Maryland defined “gross negligence” as a “wanton and reckless disregard for human life.” *Smith v. Gray Concrete Pipe Co.*, 267 Md. 149, 167 (1972). HB 906 restores that “gross negligence” standard.

About Maryland Association for Justice

The Maryland Association for Justice (MAJ) represents over 1,250 trial attorneys throughout the state of Maryland. MAJ advocates for the preservation of the civil justice system, the protection of the rights of consumers and the education and professional development of its members.

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