



**Testimony of**  
**American Property Casualty Insurance Association (APCIA)**  
**Senate Judicial Proceedings Committee**  
**Senate Bill 871- Civil Actions - Punitive Damage Awards - Surcharge**  
**March 11, 2026**

**Unfavorable**

The American Property Casualty Insurance Association (APCIA) is the primary national trade organization representing 71% of the Maryland property casualty insurance market. Contrary to longstanding legal precedent in MD, SB 871 would allow the awarding of punitive damages for much less than intentional wrongdoing. The bill's new and extremely broad standard of gross negligence would conflate punitive conduct with negligence and would likely result in jury confusion with many nuclear verdicts with punitive damage awards. In Maryland, punitive damages are designed to punish a wrongdoer for particularly egregious or heinous conduct and to deter similar conduct with a requirement that a plaintiff plead and prove "actual malice" to recover. (See *Owens-Illinois, Inc. v. Zenobia*, 325 Md. 420, 460 (1992). *Anne Arundel Cnty. v. Reeves*, 474 Md. 46, 66 (2021). )

The very low bar of gross negligence, which conflates punitive conduct with ordinary negligence would generate excessive and un-warranted punitive damage awards, with the jury focusing on prejudicial factors focused on the wealth of the defendant, the profitability of the conduct to the defendant, and the plaintiff's financial vulnerability in deciding the amount to award. This may bolster a "David vs. Goliath" theme by plaintiffs' attorneys at trial and lead to much larger awards against civil defendants.

This change may also increase the cost of doing business in the state and may put small businesses and non-profits out of business. Maryland residents already pay one of the highest "tort taxes" in the nation every year, at more than \$1,731 per resident due to excessive litigation costs. These costs further result in a loss of nearly 92,000 jobs per year.

The bill also mandates that when punitive damages are awarded, the defendant must pay an additional 50% surcharge to be deposited into a state education funding mechanism. Importantly, this surcharge is an extra payment that does not reduce the original punitive damages award. Juries may end up awarding punitive damages for the improper purpose of funding state education.

Moreover, unlike many states, Maryland's punitive damages are unlimited. In Virginia, the total amount awarded for punitive cannot exceed \$350,000. In the District of Columbia, punitive damages are not allowed in wrongful death cases. In West Virginia, the amount of punitive damages may not exceed the greater of four times the amount of compensatory damages or \$500,000.

APCIA opposes this legislation and urges the Committee to issue an unfavorable report. Thank you for your consideration.

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