MARYLAND
Chamber of Commerce

Senate Bill 432

Date: February 10, 2026
Committee: Judicial Proceedings
Position: Unfavorable

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 7,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees, and families.

Senate Bill 432 (SB 432) authorizes the Attorney General to investigate, commence, and prosecute or defend any suit or action that holds certain entities accountable for tortious or otherwise unlawful conduct that has contributed to climate change.

<u>**SB 432 Raises Significant Constitutional and Legal Concerns**</u>

Liability for Third-Party Use of Products
The bill would authorize efforts to hold producers and refiners liable not for their own emissions, but for downstream, third-party use of products sold into a global marketplace. Once products are lawfully sold, their use, regulation, and emissions are governed by a complex web of federal, state, and international policies. Assigning strict liability for the independent actions of countless third parties is legally unsound and unprecedented.

Federal Preemption and the Clean Air Act
Climate change and greenhouse gas emissions are inherently interstate and global in nature. Federal courts, including Maryland courts, have repeatedly found that state-law claims seeking to regulate or impose liability for global emissions are preempted by federal law, particularly the Clean Air Act. SB 432 attempts legislatively what courts have already rejected through litigation: the application of Maryland law to worldwide emissions and alleged global harms is in direct conflict with federal authority.

Takings and Excessive Fines Concerns
The scale of the financial obligations contemplated by the lawsuits authorized by SB 432 raise serious concerns under both the Takings Clause and the Excessive Fines Clause of the U.S. Constitution. The bill would require a small subset of companies to shoulder costs that are

societal in nature, disconnected from any individualized harm or proportional responsibility, and unrelated to Maryland-specific emissions.

SB 432 Conflicts with Recently Enacted State Energy Policy

SB 432 is fundamentally at odds with the General Assembly's recent energy policy decisions. Just last session, the legislature passed and the Governor signed the Next Generation Energy Act, comprehensive legislation intended to strengthen energy reliability and expand in-state generation capacity by accelerating the development of new, dispatchable energy resources, including new natural gas generation.

SB 432 moves in the opposite direction by exposing producers and refiners to sweeping liability for the lawful production and sale of energy products that Maryland continues to rely upon—and has recently taken steps to promote. Advancing punitive climate liability frameworks alongside policies designed to encourage energy generation sends contradictory signals to investors and undermines regulatory certainty at a time when energy reliability and affordability remain critical concerns.

Ongoing Litigation and Pending Maryland Study Warrant Caution Against Premature Action

Given the emerging legal challenges to similar state laws, Maryland should not advance comparable climate liability frameworks at this time. Last session the General Assembly passed HB128/SB149, establishing a statewide study on the total assessed cost of greenhouse gas emissions in Maryland, requiring the Comptroller, in coordination with the Department of the Environment and Department of Commerce, to conduct a comprehensive study to assess the total cost of greenhouse gas emissions in Maryland and report the findings to the legislature by December 1, 2026.

Until that review is completed and the significant legal questions surrounding climate liability are resolved, the General Assembly should refrain from advancing sweeping climate liability legislation that would expose the State to substantial legal and economic risk.

Maryland's own courts are currently wrestling with the limits of climate liability claims, further demonstrating the legal uncertainty surrounding efforts to assign responsibility for climate-related harms through litigation. In recent decisions, Maryland Circuit Courts dismissed major climate lawsuits filed by Baltimore City, the City of Annapolis, and Anne Arundel County against fossil fuel companies, finding that those state-law claims were preempted by federal law or otherwise could not proceed under existing tort doctrines. Those dismissals are now on appeal before the Maryland Supreme Court, where justices have expressed skepticism about whether broad, global climate harm claims can be shoehorned into traditional state-law causes of action, particularly where interstate and international emissions lie at the core of the alleged injury. As these appeals unfold, the outcomes will provide crucial guidance on the judicial boundaries of climate liability in Maryland, and lawmakers would be wise to consider these unresolved legal questions before endorsing new statutory authority for climate-related prosecutions or claims.

SB 432 Will Increase Costs for Maryland Households and Businesses

Independent cost studies examining similar theories of liability for "emissions related damages" under climate superfund proposals in New Jersey, Massachusetts, and New York demonstrate that these policies ultimately function as indirect taxes on consumers. Because energy is a fundamental input across the economy, the costs imposed on producers and refiners are passed through in the form of higher prices for fuel, electricity, transportation, food, and consumer goods.

These studies estimate billions of dollars in added costs to households, with disproportionate impacts on low- and middle-income families and small businesses that have limited ability to absorb price increases. Maryland consumers, already facing inflationary pressures, rising energy costs, and affordability challenges, would bear the real financial burden of SB 432.

SB 432 Singles Out Lawful, Heavily Regulated Activity While Ignoring Broader Context

SB 432 would allow lawsuits that arbitrarily target one segment of the economy for alleged global climate impacts while ignoring the essential role fossil fuels have played, and continue to play, in public health, transportation, emergency response, manufacturing, agriculture, and energy reliability.

The bill also disregards the fact that state and local governments, including Maryland, have long encouraged, permitted, and relied upon the production, transportation, and use of these fuels to support economic growth and public safety. At the same time, SB 432 fails to account for the significant contributions to global emissions from foreign governments, state-owned enterprises, and other non-covered entities that fall entirely outside Maryland's jurisdiction. By design, the bill disproportionately burdens largely domestic companies while exempting foreign producers and other major contributors to global emissions, raising serious fairness and competitiveness concerns.

SB 432 Will Generate Costly Litigation, Not Reliable Revenue

States that have enacted or proposed climate superfund legislation adopting similar theories of liability for "emissions related damages" are already facing extensive and expensive litigation. These laws will leave states with years of legal costs, administrative expenses, and uncertainty, without delivering any meaningful or sustainable funding for climate resilience projects. Taxpayers may ultimately be responsible for these costs.

For the reasons outlined above, including constitutional defects, federal preemption, economic harm to consumers, and fundamental fairness concerns, the Maryland Chamber of Commerce respectfully requests an **<u>unfavorable report</u> on SB 432**.