



Senate Bill 871

Position: Unfavorable

Committee: Judicial Proceedings

Date: March 11, 2026

Founded in 1968, the Maryland Chamber of Commerce ("Maryland Chamber") is a statewide coalition of more than 7,000 members working to develop and promote strong public policy that ensures sustained economic growth and opportunity for all Marylanders.

Senate Bill 871 ("SB 871") would reduce the standard in Maryland for imposing punitive damages, expose those who live, work, and do business in the state to a notably higher risk of extensive awards, and assess an additional 50% surcharge on punitive damages. SB 871 would overturn longstanding Maryland Supreme Court precedent by lowering the standard for awarding punitive damages. Specifically, SB 871 would replace the "malice" requirement with a "gross negligence" standard that was previously abandoned by the State.

The bill defines "gross negligence" by combining high levels of wrongdoing, like malicious intent, with lower ones, such as simple negligence. Since the bill uses an "or" between six standards, only the lowest level applies, potentially allowing punitive damages for cases of simple negligence. This definition contradicts the Maryland Supreme Court's 2019 ruling, which set a higher bar, requiring reckless disregard or intentional harm.

SB 871 proposes a 50% surcharge on punitive damage awards and allocates the surcharge funds to Maryland's public schools. The surcharge raises an exceptional concerning incentive to assess punitive damages, which are intended to punish and deter wrongful conduct, as a funding mechanism for state programs. As the public becomes aware of the surcharge, the incentive could influence jurors to award punitive damages as a funding mechanism for the State instead of in the pursuit of justice. Additionally, the surcharge could lead to excessive damage awards, potentially violating constitutional limits on proportional punishment.

SB 871 would have negative, unintended consequences for Maryland businesses, residents, and the State's legal environment. It is critical to maintain a higher standard for punitive damages, as set by the Maryland Supreme Court, to protect the rights of all parties involved and prevent the misuse of the legal system for unintended financial gain. **For these reasons, the Maryland Chamber of Commerce respectfully requests an unfavorable report on SB 871.**