



Testimony of

American Property Casualty Insurance Association (APCIA)

House Judiciary Committee

House Bill 476 - Civil Actions - Noneconomic Damages - Personal Injury or Wrongful Death

March 4, 2026

Unfavorable

The American Property Casualty Insurance Association (APCIA) is the primary national trade organization representing nearly 67.4% of the personal auto market, 81.5% of commercial auto, and 75.5% of commercial general liability in the Maryland property casualty insurance market. House Bill 476 would be a significant policy shift that would have a detrimental impact on Maryland civil defendants, residents, businesses and insurers due to increased claims, litigation jury verdicts and settlements. APCIA appreciates the opportunity to provide written comments in opposition to House Bill 476.

Repealing the non-economic damages caps for personal injury cases, which currently is \$965,000 and increases by \$15,000 every year, will also significantly complicate the ability to settle lawsuits, since plaintiffs' lawyers will demand significantly higher amounts for immeasurable harm. The current law strikes a reasonable balance between unlimited subjective awards and the consistency and predictability that contribute to a stable civil justice system in Maryland. The escalating non-economic personal injury damage caps should be retained. The practical effect of this repeal is to provide yet another avenue for plaintiffs to seek uncapped and subjective non-economic damage awards, placing businesses, consumers and insurers at greater risk for nuclear verdicts, since non-economic damages have been shown to be the key drivers of nuclear verdicts.¹

Non-economic damages may far exceed the amount of economic damage awards because of intangible factors such as subjective values, beliefs, emotional sensitivities and differing perspectives, and courts and juries often struggle to calculate fair and rational non-economic damage award. The repeal of the non-economic damages cap only provides incentives for plaintiff's attorneys to file litigation, which will significantly increase the number of lawsuits going forward and increase Maryland's already high tort tax of \$3,694 per household and decreases the state's GDP by 1.78%.²

An actuarial study was conducted by Pinnacle Actuarial Resources, Inc, an independent actuarial firm in response to the 2024 bill SB 538 which raised the cap to \$1,735,000 and the escalator to \$20,000. The study found that the change would have raised personal auto rates by as much as 19% and **commercial auto liability premiums by as much as 30%**, and general liability premiums for businesses up to 14.2% This bill would remove the caps entirely, which would only further increase these costs. In this time of affordability and economic stress, this would only add to the cost of doing business in the state which would translate to higher cost to all consumers.

The broad discretion given juries in awarding damages for noneconomic loss is the single greatest contributor to the inequities and inefficiencies of the tort liability system. It is a difficult issue to address objectively because of the emotions involved in cases of serious injury and because of the financial interests of plaintiffs' lawyers.

Pain and suffering awards are typically subject to imprecise and ineffective standards of review, such as whether the amount is so high that it "shocks the conscience." Increasing the available damages in this manner will almost certainly result in an increase in claims and lawsuit filings, and will drive up the costs of defense, settlement and claims administration, including

¹ *US Chamber of Commerce Institute for Legal Reform Nuclear Verdicts Report, November 2024*

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² *US Chamber of Commerce Institute for Legal Reform Tort Costs in America Empirical Analysis, November 2024*. For purposes of the study, tort costs are defined as the aggregate amount of judgments, settlements, and legal and administrative costs to adjudicate private claims and enforcement actions.

the increased need for experts now necessary to testify about pain and suffering on both sides given that caps would be eliminated.

- Studies have shown that caps on non-economic damages caps lead to a significant reduction in the number of court cases filed.³
- Caps on non-economic damages have also been found to be especially effective in controlling tort liability costs.⁴
- Studies document that non-economic damages caps are linked to lower insurance premiums. For example, using state-specific data, the National Association of Insurance Commissioners (NAIC) found that premium rates were lower in states that regulated the amount of non-economic damages.⁵

There is no need to repeal Maryland's noneconomic damage caps. When Maryland enacted its statutory limit in 1986, it was the first state to adopt a limit generally applicable to personal injury cases. Now, nearly two thirds of states have statutory limits on noneconomic damages that apply to all personal injury cases, medical malpractice cases, or both.⁶ Eighteen states cap or disallow wrongful death non-economic damages. Maryland's current limits on personal injury noneconomic damages are among the highest amounts in the country.⁷

Maryland's current limits on noneconomic damages in personal injury and wrongful death cases contribute to a predictable and stable business and healthcare environment in Maryland. They are within the mainstream of how other states have treated non-economic damages and should not be altered. Repeal of the caps would disturb this careful balance that the legislature has set by exposing Maryland residents and businesses to unpredictable and potentially extraordinary liability. Eliminating the statutory limit on subjective non-economic damages will result in unpredictability and will place upwards pressure on insurance rates for Maryland consumers, businesses, and insurers as the amount of insured losses skyrockets.

The legislature's foresight in enacting a reasonable limit on noneconomic damages is an important, rational measure that continues to control outlier awards and provide predictability in Maryland's civil justice system today. A statutory limit only facilitates reasonable settlements and keeps insurance rates stable if its application is predictable and consistent. If non-economic damage caps for personal injury cases are repealed, plaintiffs will increasingly utilize such tactics as summation 'jury anchoring,' arguing for an excessive pain and suffering award, which will cause Maryland to become a nuclear verdict state, with all of the associated adverse consequences. Empirical evidence confirms that anchoring "dramatically increases" noneconomic damage awards.⁸

³ https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/reports/report_2.pdf

⁴ https://www.insurance-research.org/sites/default/files/news_releases/IRCsocinfINAL..pdf

⁵ NAIC, *Profitability by Line by State, various reports*

⁶ See e.g., Alaska Stat. § 09.55.549; Cal. Civ. Code § 3333.2; Colo. Rev. Stat. § 13-64-302; Ind. Code § 34-18-14-3; La. Rev. Stat. Ann. § 40:1299.42; Md. Cts. & Jud. Proc. Code § 3-2A-09; Mass. Gen. Laws ch. 231 § 60H; Mich. Comp. Laws Ann. § 600.1483; Miss. Code Ann. § 11-1-60(2)(a); Mont. Code Ann. § 25-9-411; Neb. Rev. Stat. § 44-2825; Nev. Rev. Stat. § 41A.035; N.M. Rev. Stat. § 41-5-6; N.C. Gen. Stat. § 90-21.19; N.D. Cent. Code § 32-42-02; Ohio Rev. Code Ann. § 2323.43; S.C. Code Ann. § 15-32-220; S.D. Codified Laws §21-3-11; Tex. Civ. Prac. & Rem. Code Ann. § 74.301; Utah Code § 78B-3-410; Va. Code Ann. § 8.01-581.15; W. Va. Code § 55-7B-8.

⁷ A few states limit noneconomic damages to \$250,000. Most states with caps have limits in \$350,000 to \$600,000 range. Maryland is one of only seven states that automatically adjust the limit on noneconomic damages on a regular basis to account for inflation. While some states adjust or lift the cap for catastrophic injuries or wrongful death, many are still at levels that are lower than Maryland's limit.

⁸ John Campbell et al., *Time Is Money: An Empirical Assessment of Non-Economic Damages Arguments*, 95 WASH. U. L. REV. 1, 28 (2017).

Finally, when an injury or death is caused by malicious conduct, a plaintiff can also recover punitive damages in Maryland. About half of the states limit punitive damages to an amount set by statute or a multiple of compensatory damages. A half dozen other states generally do not authorize punitive damage awards. In Maryland, punitive damages are available and uncapped.

APCIA is not alone in its opposition but rather is part of a large alliance of business, health care and other interests in opposition to this bill.ⁱ For all these reasons, APCIA respectfully requests an unfavorable report on House Bill 476.

Nancy J. Egan,

State Government Relations Counsel, DC, DE, MD, VA, WV Nancy.egan@APCIA.org Cell:

443-841-4174

ⁱ A copy of the alliance opposition is attached with permission.



Say No to Senate Bill 474 and House Bill 476

WHAT ARE NON-ECONOMIC DAMAGES?

Non-economic damages are financial awards during lawsuits for things such as pain or mental anguish. These are subjective categories that can't be measured.

These are different from economic damages, which can be measured and documented.

WHY DID MARYLAND CREATE A CAP FOR NON-ECONOMIC DAMAGES?

Maryland's caps on non-economic damages keep litigation from getting out of control, while allowing victims to receive compensation when they are injured.

Maryland first capped non-economic damages in 1986 at \$350,000. This limit increases every year by \$15,000. It is now \$965,000.

Maryland chose to cap non-economic damages because they are difficult to measure. Maryland also allows a broader range of non-economic damages to be awarded than neighboring states. A reasonable cap on damages balances the desire to compensate victims with the need to preserve a stable business climate and control consumer costs.

An analysis conducted by an independent actuarial firm in 2024 found that increasing the non-economic damages cap to \$1.75 million could increase personal auto premiums by as much as 19% and commercial auto premiums by up to 30%.

HOW WOULD REMOVING THE CAP IMPACT AVERAGE MARYLANDERS?

Maryland's long list of non-economic damages would likely raise prices for a broad variety of goods and services for Maryland residents, adding to the intense economic stress that many households already feel.

A Maryland family pays an average of about \$5,000 per year in hidden costs that are driven by excessive lawsuits.¹ Some call this a "tort tax."

Maryland is already in the top 15 most expensive states for lawsuits as measured by its "tort tax." Uncapping non-economic damages would move it higher up that list, increasing the "tort tax" on Maryland families.

¹According to data from The Perryman Group.





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to say **NO** to higher caps on
non-economic damages.

HOW WOULD TAKING AWAY THE CAP IMPACT OUR STATE LEGAL SYSTEM?

The U.S. has a growing problem with excessive litigation. Private investors, including hedge funds, have increasingly looked at lawsuits as an investment tool, through something called Third-Party Litigation Financing (TPLF). TPLF is now a \$16 billion industry in the U.S.

Maryland's limit on non-economic damages is a protection against TPLF, because it means businesses and insurers don't have to brace for "nuclear verdicts" of \$10 million or more, or even "thermo-nuclear verdicts" of \$100 million or more.

COALITION MEMBERS

- Allstate
- APCIA
- ATRA
- Chubb
- Erie Insurance
- FedEx Corporation
- Funk & Bolton
- GEICO
- Independent Insurance Agents of MD
- Liberty Mutual
- Maryland Building Association
- Maryland Chamber of Commerce
- Maryland Defense Counsel
- Maryland Retailers Alliance
- Maryland Employers for Civil Justice Reform Coalition
- Maryland Hospital Association
- Maryland Hotel Lodging Association
- Maryland Motor Coach Association
- Maryland Motor Truck Association
- Maryland Transportation Builders & Materials Association
- MedChi
- Medical Mutual Liability Insurance Society of Maryland
- Medical Professional Liability Association
- NAMIC
- Owner Operator Independent Drivers Association
- Professionals Advocate Insurance Company
- Sentry
- The Doctors Company
- Travelers
- Uber
- UPS
- USAA
- WMDA/CAR: Service Station and Automotive Repair Association and Council of Automotive Repair (DC, MD, DE)
- Zurich

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