



**HB739 Environment – Multidefendant Oil and Hazardous Substance Pollution  
Cases – Effect of Settlement  
Environment and Transportation Committee  
February 17, 2021**

**Position:** Unfavorable

**Background:** HB739 would allow legal action to be brought against additional parties under certain circumstances concerning oil and hazardous substance pollution cases.

**Comments:** HB739 could have major impacts on retailers in Maryland. The liabilities created by this bill could broadly affect retailers that currently store and sell a multitude of products, and the true breadth of its impact is impossible to predict.

When a product release or pollution occurs, whether from retailer storage systems or because of actions of their customers, retailers may be considered responsible parties under titles 4 & 7 of the Environment article in the Maryland Code. If HB739 passed, any party that settles with the state would be entitled to seek contribution from any “party responsible for the discharge”. This broad language is of concern to the retail industry, as small businesses do not have access to resources to any judgement for contribution, or to defend against lawsuits filed by the industry giants responsible for the manufacture of products that the state may, at some future date, include in a “state-wide” “legacy pollution” lawsuit.

The bill overlooks the fact that, in the case of a product release or pollution, retailers are legally required to report the incident and would have addressed it in accordance with State requirements and directives at that time, and may have even paid penalties to resolve State enforcement actions. The liability for contribution proposed in this bill is in addition to already satisfying the State’s requirements and compensating the State for damages.

The bill as written affords retailers no defenses and removes the contributory negligence defense that would apply to such claims under current law. Likewise, it removes the statute of limitations that would bar these claims and subjects retailers to liability for incidences that may have addressed decades ago. Any insurance that applied to a release at the time it occurred would not likely apply to these contribution claims.

In short, the exposure to liability created by the bill as currently written is too great. It has been indicated that amendments may be introduced to address some of the concerns expressed here, and the Maryland Retailers Association looks forward to reviewing the proposed language and working with the sponsor and the Office of the Attorney General on the issue. Thank you for your consideration.