



LEGISLATIVE POSITION:

Unfavorable

House Bill 739

Environment—Multidefendant Oil and Hazardous Substance Pollution Cases—Effect of Settlement

House Environment and Transportation Committee

Wednesday, February 17, 2021

Dear Chairman Barve and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

As introduced, HB 739 is intended to affect the trial structure in *State of Maryland v. Exxon Mobil Corp., et al*, Case No. 1:18-cv-00459-SAG (D.Md), whereby the State has sued 62 defendants seeking to redress the alleged contamination of waters with methyl tertiary butyl ether (MTBE), an oxygenate additive that was commonly blended into gasoline from 1979 until mid-2006. If passed, the legislation would exempt certain types of pollution cases from the Maryland Uniform Contribution Amount Joint Tort-Feasors Act. Further, it would require the factfinder in certain legal actions to make a determination of the total liability and assign comparative responsibility to certain parties. It would also authorize the State to continue to pursue certain legal actions or bring new legal actions if the State has obtained less than complete relief from a certain person who has resolved the person's liability with the State in a settlement.

The Chamber has a number of significant concerns as it relates to this bill. If enacted, HB 739 would create new and vaguely defined rights under Maryland's Environmental Article, in addition to a new class of litigants, to seek contribution from parties not named in certain multi-defendant environmental lawsuits. We are concerned that it exposes Maryland small businesses and other non-parties to liability and expensive litigation.

We are further concerned that the new "comparative responsibility" standard included in the legislation amounts to the proverbial "nose under the tent," because the change in State law could then be extended to other chemicals or the phosphorous runoff from agricultural lands, and to other environmental claims. The General Assembly and Maryland courts have refused to do away with the contributory negligence standard under the State's joint tortfeasor statute.

However, HB 739 as drafted would undercut, if not dispense with, the contributory negligence defenses asserted by the defendants in the litigation the bill is attempting to address.

We believe this bill amounts to an attempt to interfere with pending MTBE litigation, and we are concerned that these changes to State law would expose Maryland small businesses, as well as county and local governments, to significant risks and costs.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report** on House Bill 739.

