



NFIB-Maryland – 60 West St., Suite 101 – Annapolis, MD 21401 – www.NFIB.com/Maryland

TO: House Judiciary Committee

FROM: NFIB – Maryland

DATE: February 17, 2021

RE: **OPPOSE HOUSE BILL 739** – Environment – Multidefendant Oil and Hazardous Substance Pollution Cases – Effect of Settlement

Founded in 1943, NFIB is the voice of small business, advocating on behalf of America’s small and independent business owners, both in Washington, D.C., and in all 50 state capitals. With more than 250,000 members nationwide, and nearly 4,000 here in Maryland, we work to protect and promote the ability of our members to grow and operate their business.

On behalf of Maryland’s small businesses, NFIB-Maryland opposes House Bill 739 – legislation creating new liability concerns for small businesses under the threat of current and future legal action by the Attorney General’s Office.

NFIB is concerned by the potential for this bill to have unanticipated consequences for small businesses by creating duplicative liabilities that spring to life without notice and years after the business was involved with the products the State is focusing on. Our members make up the majority of the businesses that will be targeted for contribution by the multinational manufacturers the Attorney General will pursue in its “large-scale, industry-wide pollution cleanup actions.” These small businesses are not involved in the product testing, formulations, or decisions regarding recommended uses made by the companies targeted by the Attorney General.

NFIB’s members tore, market, sell, and transport the products that may eventually become pollution problems the state seeks to address. These roles do not likely create or add to the characteristics of the products that become pollution problems but may make small businesses meet the definition of “responsible party” under Titles 4 &7 of Maryland’s Environment Article.

HB739

The bill eliminates defenses currently available to businesses such as contributory negligence and statutes of limitations. The businesses will have no defenses to claims even if they addressed pollution concerns of the State a decade ago or earlier. For this reason alone, this legislation will have major impacts on small businesses in the State of Maryland. Because the bill applies to an unknown number of products currently stored and sold by our members, the breadth of its impact cannot reasonably be known at this point.

During a year when small businesses are struggling to survive the impact of the COVID-19 pandemic, the bill makes substantial changes to the law without adequate opportunities to truly evaluate the impacts. For these reasons, **NFIB OPPOSES HB739** and requests an unfavorable committee report.