



TO: The Honorable Members of the House Judiciary Committee

FROM: Gene Barr, VP of Government and Public Affairs

DATE: April 1, 2011

RE: HB 1 – The Fair Share Act

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On behalf of its thousands of statewide member businesses of all sizes and crossing all industry sectors, the Pennsylvania Chamber of Business and Industry is writing you to express our **support of HB 1 without amendment**. The bill is scheduled to be considered by the House Judiciary Committee on Monday, April 4. This legislation reestablishes The Fair Share Act exactly as it passed the House in 2002 and 2006.

The Fair Share Act replaces joint and several liability with a modified version of comparative responsibility. Under joint and several liability, any defendant can be held responsible for the entire damage award regardless of their amount of fault for the injury. Under the Fair Share Act, on the other hand, a defendant found less than sixty percent liable can only be held responsible for a proportionate share of the damages. Additionally, the bill provides for a dram shop exemption, as well as exemptions for intentional torts and toxic torts.

The effect of our current law is to convert lawsuits into searches for financially viable defendants. This causes defendants who may be minimally liable if at all to settle out of court for fear of being found fully liable for substantial judgments. The application of the joint and several liability rule poses a serious problem for businesses of all types, health care professionals and governmental entities. The solvent party, or “deep pocket,” often has to pay all, or a large part, of the damages awarded.

Businesses need to be treated fairly by not holding them responsible for harm they do not cause. This means that a defendant should only be required to pay the percentage of a judgment that matches their responsibility for any harm caused, as opposed to being held fully liable as they are under current law. The Fair Share Act is an economic development tool that has no budgetary impact on the state. As a matter of fact, the Office of Attorney General recently submitted testimony to this committee stating that PennDOT is often brought into a civil suit without regard to its fault which results in a direct impact on our taxpayers who are left paying the share of others who are at fault.

Joint and several liability reform is about balance and fairness. Percentage of fault equals percentage of financial responsibility. Treat businesses fairly by not holding them responsible for harm they do not cause. Bring Pennsylvania in line with the over forty states that have reformed the common law joint and several rule. Please support in committee HB 1 unamended.

If you have any questions or concerns, please contact me.