



Dear Representative:

While we appreciate the new-found concern for small business expressed by the Trial Bar – as evidenced by the recent exchange with Rep. Curt Schroder – their argument that joint and several liability reform would hurt this segment of the business community is a complete fabrication and the polar opposite of today’s legal realities.

Absent the commonsense reforms included in H.B. 1 and S.B. 2, small businesses that lack the resources, in-house expertise and time for a protracted legal battle face the continued threat of finding themselves to be “the last man standing” and held liable for 100 percent of damages regardless of their contribution to the injury or loss. Only with the necessary reforms contained in this legislation can a small business with minimal involvement in a case have the security and certainty that they can be forced to pay no more than their proportional share of the award.

Other arguments against reform also carry no weight. In claiming that the Fair Share Act will cost state taxpayers money in the form of increased Medicaid costs, the Trial Bar can’t produce any verifiable data – none – to validate their claim. There is no precedent upon which to base numbers about cases that have yet to be brought and damages that have yet to be awarded, and this concern has not materialized in any of the 41 states that have modified or repealed joint and several liability.

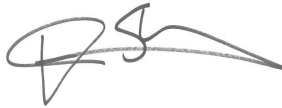
And while Fair Share Act opponents argue that joint and several liability has been a long-standing legal rule, only nine states still hold to the doctrine. Those that have moved away from it have done so because its intent to “make victims whole” has been grossly distorted by greed. As a result, unscrupulous trial lawyers search for defendants with “deep pockets,” regardless of their level of responsibility. Often this is done to force an out-of-court settlement, knowing that the fear of being held fully responsible for a large financial judgment despite being only minimally at fault – if at fault at all – leaves defendants with no other option.

It must be pointed out that House Bill 1 and Senate Bill 2 contain identical language as measures passed in 2002 and 2006, and include the same amended language that was added then to address concerns. As such, it is a fair and responsible measure designed to restore balance to financial liability.

Pennsylvania's legal climate limits access to affordable health care, harms consumers and taxpayers, and adversely impacts job creators of all sizes, which is why the Fair Share Act is strongly supported by all members of the business community, as well as by doctors, hospitals and local government.

The more than 50 state associations representing these interests ask again that you support broad-based, commonsense legal reform, beginning with modifying the unfair legal doctrine of joint and several liability.

Sincerely,



Kevin Shivers, Pennsylvania State Director
National Federation of Independent Business



David W. Patti, President & CEO
Pennsylvania Business Council



Frederick W. Anton, President & CEO
Pennsylvania Manufacturers' Assoc.



Gene Barr, Vice President, Gov't & Public Affairs
Pennsylvania Chamber of Business & Industry