

VIRGINIA CHAMBER

THE VOICE of BUSINESS

2016 General Assembly Session

GOVERNMENT AFFAIRS TEAM CONTACT INFORMATION

Keith Martin, Executive Vice President,
Public Policy and General Counsel
Direct Line: (804) 237-1456
Email: k.martin@vachamber.com

Ryan Dunn, Executive Vice President,
Corporate and Government Affairs
Direct Line: (804) 237-1455
Email: r.dunn@vachamber.com

Ryan Fierst, Public Policy Director
Direct Line: (804) 237-1459
Email: r.fierst@vachamber.com

VA Chamber **Opposes** Raising Caps on Punitive Damages

Virginia Has Fallen Out of Top 10 States for Legal Climate

VOTE **NO** ON SB111

- Punitive damages are awarded not to compensate a plaintiff but to punish a defendant for malicious or willful misconduct and to deter similar future misconduct.
- America has the costliest legal system in the world. Lawsuits cost the U.S. economy \$264 billion per year, or about \$850 per year for every man, woman, and child in the United States.
- Virginia ranked 48th among states in economic growth last year and continues to be surpassed by other states in our business friendly rankings. Virginia fell four spots to 11th in the 2015 Lawsuit Climate Survey that surveys U.S. businesses.
- Virginia's perception as a reasonable and balanced state for tort liability is fading. These perceptions matter because they can be influential in business decisions about where to conduct/expand/constrict business operations or sales. Three quarters of the respondents in this survey (75%) report that a state's litigation environment is likely to impact important business decisions at their companies such as where to locate or to do business. This is a significant increase from 70% in 2012 and 67% in 2010.
- Virginia's current punitive damages cap promotes the state's interest in fostering a legal environment that is fair and attractive to business investment and the creation of good-paying jobs. Virginia is not isolated in the economy; it must compete with other states for jobs. Most other states limit punitive damages, and a few do not permit them at all.
- For instance: North Carolina limits the award of punitive damages to three times the award of compensatory damages or \$250,000, whichever is greater.
- At a time when states are making every effort to stimulate economic activity, improvements in the legal environment offer a potential win-win for state economic development strategy. Lower tort costs can provide an economic stimulus without loss in tax receipts or an increase in spending. The challenge for states is to effect a change in the legal environment quickly so that liability risk is immediately reduced and cost savings are realized in the short term.
- The VA Chamber opposes raising the current caps on punitive damages because of their ability to force artificially higher settlements from Virginia's businesses. Settlements that are inflated by the threat of a higher punitive damages award are bad for all Virginians because they lead to higher costs for goods and services.
- The US Supreme Court expressed serious concern in recent years that punitive damages awards in this country have "run wild," jeopardizing fundamental constitutional rights. Punitive Damage caps lead to a system that is balanced, fair, and predictable for all citizens.
- The sheer unpredictability of a facing large punitive damage awards has also resulted in overdeterrence. A Conference Board Study of corporate executives found that fear of liability suits had prompted thirty-six percent of the firms to discontinue a product and thirty percent to decide against introducing a new product.
- Maintaining our current caps on punitive damages help keep our Commonwealth a pro-business environment which is key to our state's economic recovery.
- Creating a more fair court system will reduce the cost of running a business in Virginia and make us more competitive with our neighboring states. Raising the cap on punitive damages puts our state at a disadvantage.

VIRGINIA COST OF DOING BUSINESS RANKING

Forbes

2015 - #30
2014 - #24

CNBC

2015 - #37
2014 - #30

VIRGINIA LEGAL CLIMATE RANKING

Pollina

2015 - #11
2014 - #7

Institute for Legal Reform

2015 - #11
2012 - #7
2010 - #6

We respectfully ask that you Vote NO on SB111 in order to maintain legal balance and ensure Virginia's business rankings don't fall any further.