



February 27, 2025

The Honorable David A. Bennett  
House Environment and Natural Resources Committee  
Rhode Island State House  
Providence, RI 02903

Re: House 5424 – An Act Relating To State Affairs and Government – Rhode Island Climate Superfund Act of 2025

Dear Chairman Bennett:

This statement in opposition to H.5424 is submitted by the American Property Casualty Insurance Association (APCIA).<sup>1</sup> H.5424 would create a Rhode Island superfund, fining companies that extracted or refined fossil fuels since 1990 and that the Department of Environmental Management deems responsible for more than one billion tons of greenhouse gas (GHG) emissions. Any responsible parties would be strictly liable for a share of the state's climate change response work.

Property and casualty insurers have been at the forefront of climate change discussions for decades. We recognize the impacts climate change is having on our weather, economy, and lifestyles. The insurance industry supports increased federal and state funding for mitigation projects – including grants, tax credits, incentives, disaster savings accounts, and no interest loans, with targeted funding for the most vulnerable populations. We applaud the state of Rhode Island for taking steps that are often challenging and expensive to mitigate these impacts. However, we also have significant concerns about H.5424.

Foremost, the legality of superfund laws is, at best, an open question. Vermont's 2024 superfund law is already facing legal challenge in federal court.<sup>2</sup> Opponents of the law point to a 2021 Second Circuit Court of Appeals case wherein the City of New York unsuccessfully attempted to sue Chevron for climate change impacts. The court held that the issue was beyond the scope of state law and preempted by the federal Clean Air Act. While creating state legislation is different than a city's nuisance lawsuit, the basic arguments from the *Chevron* case seem likely to have broad applicability:

To permit this suit to proceed under state law would further risk upsetting the careful balance that has been struck between the prevention of global warming, a project that necessarily requires national standards and global participation, on the one hand, and energy production, economic growth, foreign policy, and national security, on the other... And as states will invariably differ in their assessment of the proper balance between these national and international objectives, there

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<sup>1</sup> Representing nearly 65% of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe. Several APCIA members are located in Rhode Island and many more do business here. Together, APCIA members write over 75% of the auto insurance sold in the state.

<sup>2</sup> <https://climatecasechart.com/case/chamber-of-commerce-of-the-united-states-of-america-v-moore>

is a real risk that subjecting the Producers' global operations to a welter of different states' laws could undermine important federal policy choices.<sup>3</sup>

Though fossil fuel products are being phased out, they are still legal, unlike, for example, asbestos. H.5424 singles out fossil fuel companies for the GHG emissions from their products, regardless of whether they acted improperly, and ignores the importance of fossil fuels in our economy, which are critical for the reliable production of electricity, our transportation needs, and have many other essential uses. The U.S. federal government has supported the production and use of fossil fuels through subsidies and policies that necessitate their consumption.

The bill also ignores GHG emissions from other large sources such as agriculture and assesses all penalties on the producers of fossil fuels regardless of how the product is used, with no penalties on the ultimate users of the fossil fuels where the emissions occur. It penalizes larger, more established fossil fuel companies, while leveling no penalties on smaller or newer operations. It also does not consider other actions that fossil fuel companies may be taking to mitigate their GHG emissions, nor does it incentivize GHG reduction strategies such as carbon capture or alternatives such as renewable energy.

For the foregoing reasons, we oppose H.5424 and would welcome the opportunity to discuss other ways to enhance the climate resiliency work already underway Rhode Island.

Very truly yours,



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<sup>3</sup> *City of New York v. Chevron Corp.*, 993 F.3d 81, 91-99 (2d Cir. 2021).  
<https://law.justia.com/cases/federal/appellate-courts/ca2/18-2188/18-2188-2021-04-01.html>