



March 11, 2025

Representative Robert E. Craven, Sr.
Chair, House Judiciary Committee
Rhode Island State House
Providence, RI 02903

Re: House 5908 – An Act Relating To Courts And Civil Procedure – Procedure Generally – Causes of Action

Dear Chair Craven:

This statement in opposition to H.5908 is submitted by the American Property Casualty Insurance Association (APCIA).¹ House 5908 would permit punitive damages in all civil actions in Rhode Island and undo longstanding precedent requiring a demonstration of intent. Lowering the standard for punitive damages is likely to increase the frequency and amount of litigation potentially resulting in undesirable economic effects in the state and an unpredictable and de-stabilized legal environment.

Legal Impacts of H.5908

Punitive damages are awarded on top of compensatory damages. They are at the intersection of criminal and civil law, being awarded in civil cases, but with intent to punish a tortfeasor and deter future conduct.² Rhode Island courts have recognized this link, stating that punitive damages can be awarded upon evidence of such “wickedness on the part of the party at fault as amounts to criminality by the defendant.”³

However, Rhode Island courts have held that punitive damages should only be allowed in tort cases “when it can be shown that the defendant has acted maliciously or in bad faith.”⁴ Acting maliciously or in bad faith require the defendant to *intend* that their actions cause harm. H.5908 would further increase the frequency of punitive damages awards in Rhode Island by replacing this standard with mere recklessness which the actor “should have known” posed risk.⁵ Harkening back to criminal law, intent under Rhode Island law, is the difference between murder and manslaughter. The former requires an intent to kill while the latter merely requires recklessness.

¹ 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 almost 68.5% of the commercial insurance sold in the state.

² Making the Punishment Fit the Crime: Rhode Island’s Common Law of Punitive Damages, Zurier, Rhode Island Bar Journal (June/July 1998), https://zurierlaw.com/wp-content/uploads/Article-4_Web.pdf

³ *Johnson v. Johnson*, 654 A.2d 1212 (R.I. 1995), <https://casetext.com/case/johnson-v-johnson>

⁴ *Morin v. Aetna Cas. & Sur. Co.*, 478 A.2d 964 (R.I., 1984), <https://law.justia.com/cases/rhode-island/supreme-court/1984/478-a-2d-964.html>

⁵ Conduct that is merely reckless does not justify punitive damages. *Wilson Auto Enter., Inc. v. Mobil Oil Corp.*, 778 F. Supp. 101, 107 (D.R.I. 1991), <https://law.justia.com/cases/federal/district-courts/FSupp/778/101/1605416/>

Lowering the threshold for punitive damages poses a particularly significant threat in Rhode Island, in part because the state already has some of the most permissive punitive damage standards in the country, both by failing to provide for a monetary limitation on punitive awards and by allowing a lower “preponderance of evidence” standard of proof required for punitive damages. To this end, Rhode Island is a distinct outlier, as over 75% of states that permit awards of punitive damages also require that those damages must be proven by “clear and convincing” evidence.⁶ Furthermore, most other states have enacted limitations such as only allowing awards of punitive damages under certain circumstances and requiring a higher standard of conduct and proof, or as well as capping the amount of any such awards.⁷

Social Impacts of H.5908

To the detriment of Rhode Island’s legal climate, business community and its residents, H.5908 would expand Rhode Island’s already plaintiff-oriented punitive damage standards by extending the availability of such damages to all civil actions and eradicate the clear and strong standards of conduct promulgated by the Rhode Island Supreme Court. H.5908 will encourage more frequent and excessive demands for punitive damages and hinder settlements. It makes case outcomes less predictable, potentially exposing businesses and other civil defendants in Rhode Island to the risk of astronomically large punitive damages that could put them out of business and adversely impact Rhode Island’s economy. Ultimately, this bill raises tort costs that will be borne by all Rhode Island citizens and businesses.

For all of the above reasons, APCIA respectfully requests that H.5908 be held for further study and not advanced in this session.

Very truly yours,



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⁶ Wilson Elser 2023 Punitive Damages State Survey, <https://ecomms.wilsonelser.com/hubfs/Wilson%20Elser%2050-State%20Survey%20Punitive%20Damages%202023-2.pdf?hsCtaTracking=f675006a-1a58-4a46-ab1d-6f2453e97313%7Ca018c5bf-daa4-400a-a747-99a82b0ee804>

⁷ Punitive damage values are very subjective. In theory, a punitive damages award should be tied to the defendant’s reprehensible conduct, but in Rhode Island, without monetary parameters, juries can take almost anything into consideration when determining the size of a punitive damages award.