



**ADDENDUM – March 2, 2026**

Representative Carol Hagan McEntee  
Chair, House Judiciary Committee  
Rhode Island State House  
Providence, RI 02903

Re: House 7750 – An Act Relating To Courts And Civil Procedure – Procedure Generally – Causes of Action

Dear Chair McEntee:

This additional statement in opposition to H.7750 is submitted by the American Property Casualty Insurance Association (APCIA).<sup>1</sup> As noted in our February 26 letter, House 7750 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 increasing social inflation and an unpredictable and de-stabilized legal environment, all of which will increase insurance premiums for Rhode Islanders.**

At the February 26, 2026 hearing, we heard from the Rhode Island Association of Justice that the standards for punitive damages in Rhode Island originated in the case Palmisano v. Toth, 624 A.2d 314 (R.I. 1993). That shortchanges the history of this issue by decades, via Rhode Island Supreme Court cases dating back to the 1970s.<sup>2</sup> The existing common law rule is based on over 50-years of Rhode Island Supreme Court jurisprudence spanning the tenures of six different Chief Justices. This is not a new or novel concept and it has long served Rhode Islanders well.

We also heard that Rhode Island's rule is significantly harder to access than other states. That is simply not true, especially when considering the totality of the circumstances.

Rhode Island common law permits punitive damages for willfulness, recklessness, or malicious or bad faith acts. H.7750 would lower that bar to willful or wanton conduct or reckless disregard for a possible foreseeable harm.

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<sup>1</sup> Representing 67% 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 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. APCIA members are integral to the state of Rhode Island. They write 76% of the property casualty insurance sold in this state. The P&C insurance industry employs over 3,200 Rhode Islanders, provides annual assistance of \$1.5 billion in claim payments to help customers in the state, and contributes over \$160 million annually to the state in premium taxes.

<sup>2</sup> See e.g., Sherman v. McDermott, 329 A.2d 195 (R.I. 1974); Morin v. Aetna Cas. & Sur. Co., 478 A.2d 964 (R.I., 1984); see also Greater Providence Deposit Corp. v. Jenison, 485 A.2d 1242 (R.I. 1984).

Nationally, standards for punitive damages typically involve a string of descriptive legal terms. Based on a 50-state review<sup>3</sup> Rhode Island’s common law and H.7750 terms are compared below. Note that in both the bill and common law, these terms are in disjunctive clauses, meaning more terms provide more options for attorneys.

	Common Law Only	Common Law Only	Common Law Only	Bill and Common Law		Bill Only	Bill Only
	Bad Faith	Malice	Wickedness	Willful	Reckless	Wanton	Foreseeably might be harmed
States	2	32	2	17	22	22	1

Some notable differences contained in this bill include:

- Replacing “malice,” one of the most common standards nationally for punitive damages (32 states) with ‘wanton” (22 states); and
- Adding “foreseeably might be harmed,” a term used in just one state (New Jersey).

While several states have some element of harm, many include more significant qualifiers on:

- The level of harm (e.g. “significant harm”) not present in the bill.
- The degree of certainty in causing harm (e.g. “high degree of probability” or “substantial risk”). The bill’s language “foreseeably **might** be harmed” allows for punitive damages based purely on speculation.

The bill borrows heavily from New Jersey law, including for the singular outlier “foreseeably might be harmed” language. New Jersey is home to one of the most expensive civil justice systems in the United States<sup>4</sup> and regularly appears on the Judicial Hellholes watchlist<sup>5</sup>. Most notably, though, in part because of its extremely low bar and highly speculative punitive damages standard, New Jersey is one of several states that caps punitive damages at the greater of 5x compensatory damages or \$350,000.<sup>6</sup> Again, **creating one of the lowest and most speculative punitive damages standards in the country without a cap on damages is likely to cause explosive growth in costs.**

Furthermore, current Rhode Island law and many other states reference malicious or bad faith acts. The bill would replace them with merely “dangerous” acts. Malice and bad faith entail an element of knowingly committing acts with wicked or sinister motives. Dangerous acts do not. They just entail a risk of possible harm. Again, fueling speculative damages and undercutting the need to prove the truly egregious harms that punitive damages are supposed to address.

Finally, **it is essential that Rhode Island maintain a high standard of conduct because the state has a low standard of proof.** Thirty-five (35) states use a clear and convincing standard for punitive damages (including New Jersey from which this bill borrows heavily). This standard requires a “firm belief or conviction that it is highly probable that the factual convictions are true.”<sup>7</sup> Colloquially, it is often described as a 75-80% confidence factor. **Only ten (10) states, including Rhode Island, use a**

<sup>3</sup> <https://ecomswilsonelser.com/hubfs/Wilson%20Elser%2050-State%20Survey%20Punitive%20Damages%202023-2.pdf?hsCtaTracking=f675006a-1a58-4a46-ab1d-6f2453e97313%7Ca018c5bf-daa4-400a-a747-99a82b0ee804>

<sup>4</sup> <https://www.nicji.org/newsroom/nj-civil-justice-system-ranked-one-of-the-most-expensive-in-the-us>

<sup>5</sup> <https://judicialhellholes.org/new-jersey/>

<sup>6</sup> New Jersey Punitive Damages Act, N.J.S.A. 2A:15-5.9

<sup>7</sup> <https://www.ce9.uscourts.gov/jury-instructions/node/48>

**preponderance of evidence standard.** This requires simply convincing a jury that the facts are more probably true than not true,<sup>8</sup> often described as a 50.1% standard.

Lowering the standard of conduct with an already low standard of proof is a recipe for a significant increase in punitive damages in Rhode Island. Putting it all together, under H.7750, **punitive damages would be available simply for a 50.1% chance of the possibility of harm**. This bill does only one thing - increase social inflation. It cuts against the very policy reasons for having punitive damages and will ultimately increase costs for Rhode Islanders.

For all of the above reasons and those contained in our February 26<sup>th</sup> letter, APCIA respectfully requests that H.7750 be held for further study and not advanced in this session.

Very truly yours,



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<sup>8</sup> See e.g., <https://www.ce9.uscourts.gov/jury-instructions/node/47>