

Tort Reform

Problem:

Excessive litigation in the U.S. limits job creation, stymies innovation, and increases costs of goods and services. In 2018, small businesses faced \$182 billion in commercial tort costs, even though they brought it only 19 percent of the revenue. The entire commercial tort liability bill for 2018 was \$343 billion – which means that small businesses paid more than half of the commercial liability costs in the tort system. It is clear that common sense must be returned to our system of civil litigation.

- *Punitive Damages*: The difficulty of predicting whether punitive damages will be awarded by a jury in any particular case, and the marked trend toward astronomically large amounts when they are awarded, have seriously distorted settlement and litigation processes and have led to wildly inconsistent outcomes in similar cases.
- *Product Liability*: The inconsistent and often contradictory product liability regulations that exist across the country impose widely varying statutes of limitations, create uncertainty for businesses selling in a national marketplace, and too often allow for absurdly large awards.
- *Frivolous Lawsuits*: Given the exorbitant legal and court fees associated with a typical lawsuit, individuals and businesses must spend huge sums of money to defend themselves in court. Faced with such debilitating fees and bad publicity of a trial, many small businesses must settle out of court, even when they have done nothing wrong.
- *COVID-19 Liability*: Small businesses can be subject to frivolous lawsuits that try to exploit the COVID-19 crisis. Businesses should be protected from liability unless the plaintiffs can prove the business willfully failed to put in place a plan to reduce the risk of COVID-19 exposure.

Solution:

The present tort system is an expensive and inefficient way to compensate those injured. The current system stifles innovation and other economically stimulating activity—Congress needs to boost transparency, restore fairness and properly address excessive regulations as a way to deal with these frivolous lawsuits and unfair liability regulations that are imperiling America’s small businesses.

- Lawmakers must embrace balanced liability relief provisions similar to last Congress’ *SAFE TO WORK ACT (S. 4317)* in any future COVID-19 relief legislation. Legislation should ensure that unfair lawsuits will not hamper those who work to comply with applicable government guidelines.
- There should be a reasonable cap on the awarding of punitive damages.
- Policymakers should promote the creation of a federal product liability reform law, which would create nationally uniform statutes of limitations and “standards of repose,” which would disallow lawsuits over products over a certain age.
- Individuals and attorneys who file frivolous lawsuits should be held accountable for their actions.