

AMERICA WORKS BEST
WHEN WE SAY . . .



March 24, 2003

PENNSYLVANIA AFL-CIO

WILLIAM M. GEORGE
President

RICHARD W. BLOOMINGDALE
Secretary-Treasurer

TO: ALL MEMBERS OF THE SENATE JUDICIARY COMMITTEE

RE: **Senate Bill 50 – Caps on Damages for Any Tort Action**
PLEASE OPPOSE

Dear Senator:

We are writing to request your strong opposition to Senate Bill 50, Printer's Number 33. Senate Bill 50 proposes a Constitutional Amendment, which would pave the way for the General Assembly to put caps for non-economic pain and suffering on any and all lawsuits brought by injured workers for product liability, auto accidents, any act of negligence or wanton and willful harm caused to another. Although most believe the proposed Amendment only impacts medical malpractice, the truth is damages for any tort lawsuit would be limited.

This Amendment, which is a complete reversal of current specific constitutional language, will shift the costs of injuries from the negligent defendant to the individual. The proposal has its most serious impact on children and the elderly because wage losses would not be paid for the elderly and under-valued for children. This is not to underestimate an equally harsh penalty on workers in mid-life whose future years of earning are limited.

Pain and suffering judgments made by a jury are given to compensate for the pain and suffering i.e. the loss of physical activity; the pain associated there from; the loss of the pleasures of life and for foreclosed opportunities to advance both employment wise and personally.

Although the proposal to limit pain and suffering is driven by the perceived medical malpractice affordability crisis, Senate Bill 50 is not limited to medical malpractice, but covers product liability i.e. suits brought by injured and disfigured workers against manufacturers of defective products. Two-thirds of the product liability cases arise out of workplace injuries. Senate Bill 50 would go even further than these two areas to limit relief in all actions involving negligence or intentional harm caused to others.

The use of caps, although flashy and sold as a silver bullet, is nothing of the kind. Caps will not reduce costs or increase access for medical malpractice or any other line of insurance. California enacted caps in 1975 and rates of insurance in med-mal went up 405% until Proposition 103 was adopted by referendum, which prohibits rate increases unless insurers opened their books to establish the need for a rate increase. Only one insurance company sought a rate increase and, when requested to open their books, withdrew the rate requests.

The right to sue for injuries caused by another is a fundamental 300-year-old doctrine. This fundamental right defines our duties of care to each other. Please do not retreat from current law, which incents safety in manufacture of machinery used by workers. Altering the current law undermines our mutual duty of due diligence.

Caps sound like they may help, but the real impact is to shift the costs of an injury, the pain and suffering, to the innocent victim.

Please do not over-rule 300 years that define our basic responsibilities to each other.

Please oppose Senate Bill 50, Printer's Number 33.

Thank you.

WILLIAM M. GEORGE, President
RICHARD W. BLOOMINGDALE, Secretary-Treasurer

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