



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR  
HARRISBURG

THE GOVERNOR

March 24, 2006

TO THE HONORABLE SENATE OF THE  
COMMONWEALTH OF PENNSYLVANIA:

I am returning Senate Bill 435 without my approval.

The doctrine of joint and several liability has been handed down to us from English common law and has prevailed in this country for over 200 years. But it has become apparent in our industrialized society that this doctrine has produced inequitable and unfair results that have had a detrimental impact on businesses. Several years ago, a Pennsylvania company, Crown Cork & Seal, was held responsible for 100 percent of the damages in an asbestos class action when it had caused less than three percent of the injuries. The other companies that had caused the vast majority of harm were bankrupt and out of business, leaving Crown Cork & Seal with the responsibility of paying nearly \$250 million in damages. This is not an isolated example by any means. A business leader for whom I have the utmost respect, Alan Miller of Universal Health Systems, sent me several examples of hospitals that were forced to pay 100 percent of significant damage claims where the hospital liability was nominal.<sup>1</sup>

For these reasons, I said in my campaign for Governor that I believed Pennsylvania must enact some limits on the doctrine of joint and several liability to protect Pennsylvania businesses from such unfair and inequitable results.

---

<sup>1</sup> I also note that while Senate Bill 435 could benefit some businesses with substantial resources, it would put many other businesses – particularly smaller companies – at risk. In fact, this bill offers sophisticated, well-financed corporations defending themselves against negligence claims a strong incentive to join smaller companies who have fewer financial resources as parties to the litigation. By joining a smaller business, the large corporation can limit its exposure because the presence of the joined party as a defendant will likely reduce the joining corporation's liability under the 60 percent threshold set by Senate Bill 435 for assignment of joint and several liability. As a result, while the larger corporation's exposure may be limited, the smaller business is trapped in a lawsuit that it may have never been party to if Senate Bill 435 were not law. Senate Bill 435 also ignores the needs of small businesses in another way. It fails to protect responsible retailers and suppliers who unwittingly sell a defective product. Proposed amendments to the bill would have shielded such suppliers and retailers from liability, but these amendments were defeated. Without these important protections, I believe that Pennsylvania's independent retailers and suppliers will continue to suffer from unfair lawsuits at perhaps an even higher rate because large manufacturers will increasingly join retailers in an effort to ensure no one entity is assigned more than 60 percent of the liability.

March 24, 2006

Page 2

I still believe that we need these limits. But I am vetoing Senate Bill 435 because it does not effectively balance the critical needs of victims who should be adequately compensated for their injuries with the reasonable needs of businesses to limit their exposure to liability for damages caused by other parties.

In the days since the passage of Senate Bill 435, I have received letters from many business associations and business leaders whom I greatly respect all urging me to sign this legislation into law. I have also received many letters from union and consumer groups (such as the American Association of Retired Persons and Mothers Against Drunk Driving) all urging me to veto this legislation. Just as our businesses have given me telling examples of the unfairness and harm that is caused to them by the current law, consumer organizations have given me just as telling examples of how victims – many times the children of parents killed by negligent actions – would be left without adequate compensation for their loss.

I believe we must find a better way – a law that will balance the equities between our businesses and the victims of negligence. During the debate on this issue, there were bipartisan attempts in both chambers of the General Assembly to achieve an appropriate balance, but both failed narrowly. Senator Stewart Greenleaf, and Representative Thomas Gannon, both thoughtful Republican legislators, championed these efforts. Though these proposals were not perfect, they sought to achieve a fair balance.

Too often in today's society we are faced with two sides dramatically opposed that are totally polarized and unwilling to work together to resolve differences. While I am vetoing Senate Bill 435, I believe that legislative leaders and I should convene a meeting of business leaders, union leaders, representatives of consumer groups, legal associations and other interested parties to work out legislation that will resolve these differences and strike the appropriate balance.



Edward G. Rendell  
Governor