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April 12, 2018

Rep. Maxine Grad & House Judiciary Committee Members:

Thank you for the opportunity to express our concerns about S.197: An act relating to liability for toxic substance exposures or releases. AGC/VT believes this bill warrants a written letter expressing our concerns on behalf of all of our members.

As you know, when chemicals are released that cause harm in Vermont there are several options, both legally and regulatorily, for citizens and for the state to seek appropriate compensation and remediation. We believe very strongly that S.197 would lower thresholds and criteria as well as remove defenses to such an extent which will fundamentally undermine due process and reasonable or sustainable risks and costs.

This bill will create a negative economic consequence on Vermont general contractors and their employees as well as increase the cost of AOT, BGS, and private development projects. With the higher cost of projects and the federal funding unstable, it will cause an undue burden and decrease highway repairs, culvert replacements, and bank stabilizations. Construction is an important part of our economic viability in Vermont and maintaining safety for the traveling public.

This bill also creates an uneven playing field for which VT contractors' bids will be higher than their competition out of state because of the high cost of liability insurance. You may think that every contractor will have the same liability costs. However, if you are based out of state and most of your work is in that state, their liability insurance will be considerably less than those contractors based in Vermont. As a reminder, the competition doesn't pay Vermont taxes or employ Vermonters, and they take work away from those same Vermonters who you are trying to protect. S.197 would be compounded by the extent to which Vermont will again have different regulations than surrounding states.

Under S.197, Vermont contractors would be held financially liable for any claim of personal injury or property damage, or for medical monitoring costs, associated with releases that are below levels set by state or federal permits and below state or federal environmental or health limits.

The bill does not set clear or reasonable exposure limits that are linked to any established state or federal environmental or health standards for a plaintiff to make a claim.

No other state has adopted such expansive liability legislation. The bill would create potentially significant risks and disincentives to continued investment and business operations in Vermont.

Thank you for considering our concerns. To be clear, ACT/VT opposes S.197.

Sincerely,

Cathleen Lamberton
Executive Vice President

Cc: Vermont House Transportation Committee
Vermont House Institutions & Corrections Committee
Rep. Mitzi Johnson; Speaker of the House