

April 11, 2018

Madam Chair and Members of the Committee:

Thank you for the opportunity to comment on the proposed S.197 legislation relating to liability regarding the release of toxic substances. The Regional Development Corporations of VT (RDCs) work with businesses and communities to help grow our economy and provide Vermonters' with employment opportunities that strengthen local communities. The RDCs view this legislation as something that will negatively impact our efforts, so we appreciate this opportunity to provide a brief statement addressing the potential economic impacts of the bill.

We believe there will be negative economic implications because of the strict liability as it will create uncertainty within our current business and manufacturing environment. This uncertainty will also impact our ability to attract new business and industry. The strict liability as proposed under S.197 would create a significant disincentive for many manufacturers who engage in developing and commercializing new technologies. This bill appears to treat responsible businesses – those who take care in procuring the proper permits, following all applicable state and federal regulations – in the same manner as the malicious polluter. Asking companies to be responsible for the foreseeable as well as the unforeseeable, despite acting as responsible businesses in the eyes of current local, state, and federal law, may well discourage those companies from pursuing advancements in manufacturing, biosciences, agricultural technologies, and other emerging technologies.

S.197 certainly has the potential to put Vermont at a disadvantage in its ability to attract new industries. Adopting a strict liability in VT at this time - *in isolation from this happening at a similar national or New England level* - would create an unfavorable economic environment for companies comparing Vermont to other states as a place to do business. This un-level playing field would come at a cost to existing companies as they must build the price of an unknown risk into the cost of their product, making them less competitive in the marketplace. We know that when a company is no longer competitive it loses market share, and over time it can't afford remain in business, thereby shedding its workforce and providing fewer opportunities for Vermonters. VT has seen recent successes in recruiting businesses from Quebec and the state has long been good at business start-ups, so it is worth repeating that business recruitment and start-up efforts would likely be impacted by this legislation as well.

To echo earlier comments made by the VT Commissioner for Economic Development to the Senate on this legislation, "...as a society we've struggled with reconciling business, the environment, innovation, and how to make sure businesses build the cost of responsibility into their products. As a State we've done better than others, but with obvious room to improve, but importantly we've not done anything that would make us a pariah in the national or regional marketplace". The Regional Development Corporations of VT believe that there can be a balance between community and economic development and protecting the environment and our citizenry, but the S.197 legislation is not the appropriate way to do this if we would like businesses to succeed In VT.

Thank you for your consideration.

David Snedeker, President  
Regional Development Corporations of Vermont



**PLEASE VOTE NO ON S.197**

Dear Representatives:

As organizations representing employers of every kind, size, and location across Vermont, we strongly urge you to vote no on S.197. S.197 would make sweeping changes to the potential liabilities that companies could face for *any* alleged personal injury, property damage, and medical monitoring costs that individuals might associate with releases of chemicals. The legislation is fundamentally flawed and unbalanced, and it could significantly increase operational risks and costs for a wide range of Vermont employers without providing a substantial and warranted public benefit.

Some of the key problems with the bill include:

- Companies could 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.
- Companies could be held liable for medical monitoring costs even if an alleged exposure is within background exposure levels or even if it is not considered likely to result in any disease actually developing -- *any* increase in risk is sufficient.
- The legislation does not provide any of the exemptions or defenses against financial liability that are included in the statutes that allow the state to hold companies liable for chemical releases.
- The bill could make liability insurance unaffordable or unavailable to many businesses in Vermont, compounding the increased risks and costs of doing business in the state.
- 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 compared to other states.

There are a number of legal and regulatory options for citizens and for the state to seek appropriate compensation and remediation from companies responsible for chemical releases that cause true harm. S.197 would lower thresholds and criteria and remove defenses to such an extent as to fundamentally undermine due process and reasonable or sustainable risks and costs. The negative economic consequences would only be compounded by the extent to which Vermont would be out of line with other states.

We respectfully urge you to vote NO on S.197.

Sincerely:

David Snedeker, President  
Regional Development Corporations of Vermont