



Central Vermont Chamber of Commerce

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Statement Before
Vermont General Assembly
House Committee on Judiciary
Presented by
William D. Moore
Central Vermont Chamber of Commerce
April 12, 2018

RE: S 197, An Act Relating to Liability for
Toxic Substance Exposures or Releases

Representative Grad, Honorable Members of the House Committee on Judiciary . . .

My name is William D. Moore. I am the President and CEO of the Central Vermont Chamber of Commerce. The Central Vermont Chamber of Commerce is the largest business organization serving Washington County and a portion of Orange County. Our diverse membership consists of some of the largest businesses in Vermont as well sole proprietorships. Virtually every sector of Vermont's economy is represented in our membership.

Thank you for the opportunity to be before you today to discuss issues concerning S 197, An Act Relating to Liability for Toxic Substance Exposures or Releases.

We have several concerns about the proposed legislation.

The Central Vermont Chamber of Commerce believes that all businesses should comply with all existing law. We believe that all companies should be operating with strict attention to safety for their employees, the public and the environment. We are concerned, however, that this Act may impose severe future penalties on companies who are in compliance with existing law and regulations today.

Under Sec. 1. 10 V.S.A. chapter 159 §6685 (3), “Toxic substance” means any substance identified as toxic or hazardous under State or federal law, or mixture thereof, or any other substance that has been shown at any time to cause increased risk of disease.” The phrase “at any time” is troubling. This section would hold a company that is acting within the confines of a properly issued permit liable for using something that may, five, ten twenty or more years from now be deemed to be “toxic” or “hazardous.”

We have the same concern regarding adding Chapter 219 § 7201. DEFINITIONS to Sec. 2. 12 V.S.A which uses the same definition for “Toxic substance.”

We are very concerned that the bill that creates strict liability for damage to property and human health for the release of harmful substance into the environment and provides few of the legal defenses available under other environmental law statutes. Again, it is troubling that those who uses substances that are deemed safe today would be held liable in the future should those substances be deemed to be toxic at some unknown time in the future.

We are also concerned that someone who, following the constraints contained in a permit is liable for costs associated with medical monitoring regardless of whether or not a there is a “present injury or disease.” This becomes even more problematic when one considers that the Act does not require an individual to prove “disease is certain or likely to develop as a result of the exposure.”

We are concerned that there is no measure of how much exposure the individual had to the hazardous substance that would lead a reasonable person to conclude that they are at risk of disease.

I have spoken with insurance underwriters who have told me that these conditions will make it virtually impossible to obtain insurance for companies that use chemicals in their normal operations. Lenders have told me the same thing regarding financing.

In short, enactment of S197 could have a chilling effect on any development, investment or business expansion in Vermont.

We believe that enactment of S197 will cause an unfair, undue burden on those who today are acting in a lawful permitted way, who are acting in a manner allowed by the state, who are acting pursuant to current statutes and regulations. We respectfully urge the Committee to reject S 197, An Act Relating to Liability for Toxic Substance Exposures or Releases.

Thank you for the opportunity to present these comments to the Committee. I will be happy to respond to any questions that the Committee may have.