



## MEMORANDUM

May 17 2007

**SUBJECT:** Re-Enactment of the Fair Share Act

**TO:** Members of the General Assembly

**FROM:** Gene Barr, Vice President, Pennsylvania Chamber of Business and Industry  
Kevin Shivers, State Director, National Federation of Independent Business  
David N. Taylor, Executive Director, Pennsylvania Manufacturers' Association

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As you may be aware, Rep. Harry Readshaw has introduced legislation – House Bill 13 – which would protect any landowner who (either directly or indirectly) invites or permits any person to use his property for recreational purposes from incurring liability for any injury to persons or property caused while hunting. Although necessary, House Bill 13 only treats one symptom of our unbalanced legal system, not the cause. Rather than taking a piecemeal approach, we need to comprehensively fix the problem by re-enacting meaningful joint and several liability reform.

The Fair Share Act replaces joint and several liability with a modified version of comparative responsibility. Under the “Deep Pockets Rule” of joint and several liability, any defendant can be held responsible for the entire damage award regardless of their amount of fault for the injury. Under the Fair Share Act, on the other hand, a defendant found less than sixty percent liable can only be held responsible for a proportionate share of the damages.

Last year, Governor Rendell vetoed Senate Bill 435, the bill that would have re-enacted the Fair Share Act. Legislative action became necessary when litigation initiated by House Democratic leadership successfully struck down, on procedural grounds, the 2002 reform. Governor Rendell’s veto demonstrated that he clearly stands with the lawsuit industry and against the numerous groups that asked for this critical reform, including doctors, hospitals, large and small businesses, universities, and non-profit organizations. Governor Rendell needs to do what candidate Rendell promised to do – re-enact joint and several liability reform as passed in 2002.

The American Tort Reform Association reports that as of May 2006, 44 other states have reformed the antiquated doctrine of joint and several liability. If Governor Rendell truly is concerned about the need for the types of changes to joint and several liability that the Legislature ultimately enacted, then he should demand immediate action on Senate Bill 435 and House Bill 850.

We ask for you to support the Fair Share Act in the same bipartisan manner that it was overwhelmingly passed in 2002 and 2005 and urge you to encourage Governor Rendell to sign this legislation into law to restore fairness, common sense, and personal responsibility to our legal system.