

HB 496 - beekeeper civil immunity
Testimony by Curtis Fifner
For the Ohio Association for Justice
Before the House Civil Justice Committee
May 19, 2020

Chairman Hambley, Vice Chairman Patton, Ranking member Brown, and members of the House Civil Justice Committee, thank you for the opportunity to provide testimony in opposition to House Bill 496. I am Curtis Fifner, and I am a plaintiff's trial lawyer who represents injured Ohioans throughout the state. I am here as a member of the Ohio Association for Justice, an organization that is committed to guarding the sacred right to a trial by jury, outlined in the 7th Amendment of the Constitution.

OAJ opposes civil immunity legislation in general because it nullifies an inviolate Constitutional right, creates a special set of rules for an exclusive set of people, and eliminates personal accountability for wrongdoers who hurt others through their actions. As Thomas Jefferson stated, the right to trial by jury is, "the only anchor, ever yet imagined by man, by which a government can be held to the principles of its Constitution."

In past, this General Assembly has enacted tort reforms restricting our 7th Amendment rights only when in response to perceived liability crises and to serve an imperative public purpose.

In light of our Constitutional rights and these principles, we have to ask here: Does the situation described by the proponents rise to the level that justifies suspending one of our fundamental Constitutional rights? Further, will this legislation relieve the problem as presented?

As the proponents admitted here, there is no liability crisis. The last successful lawsuit anyone heard of occurred in 1925 when a farmer sued his neighbor because the neighbor's bees stung the farmer's horse and it died. This trivial number of claims doesn't constitute a crisis.

The lack of successful reported cases is telling. In these cases, an injured party must still prove the elements of negligence- a duty of care, breach of that duty, causation, and damages. The most difficult part of any case against a bee owner is proving ownership of the bee at issue. Even in the unlikely event that the correct owner is identified, being stung by a bee does not make the beekeeper liable. A plaintiff still has to prove how the beekeeper negligently caused the injury. This will require the presentation of expert testimony, specialized testing, and numerous depositions for the injured person to potentially prove their case. Therefore, as a practical matter, the only people that will be harmed by this immunity are the ones who are either so catastrophically injured or killed by a bee sting that their case would justify the astronomical difficulties necessary to win.

The proponents say immunity will help encourage more people to take up the hobby of beekeeping because one impediment that stands in the way of more people becoming beekeepers is that homeowner's insurance policies don't cover beekeeping activities. But there has been no assurance that insurance industry will waive this exception for beekeepers if this immunity provision is enacted.

We acknowledge that this bill is pretty restrained because, to qualify for the immunity, the beekeeper must beginning on line 12 of the bill:

- Comply with best practices of the Ohio State Beekeepers Association;
- Keep records of compliance with those best practices;
- Comply with local zoning requirements; and
- Comply with Ohio Dep't of Agriculture requirements, notably the requirement to register annually.

However, complying with industry best practices does not mean that a person cannot still be negligent. If I drive my car the speed limit on Interstate 70 through downtown Columbus and leave multiple car lengths between my car and the vehicle ahead of me, I would be complying with safe practices on the road. If traffic stops ahead of me though, and I am unable to safely stop my vehicle before slamming into the vehicle ahead of me, I would still be negligent under Ohio law and be responsible for the damage that I caused. I should not be immune from the consequences of my actions.

So in the final analysis, the practical impact of this bill on the rights of Ohioans is slight. Conversely, we contend the bill is not going to alleviate the problems the proponents presented.

We respectfully submit this proposal is not sound public policy, and we urge you not to pass it.

Thank you for your attention.