

HB 392 - beekeeper civil immunity
Testimony by John Van Doorn
For the Ohio Association for Justice
Before the Senate Agriculture Committee
May 22, 2018

Chairman Hackett, Vice Chairman Hoagland, Ranking member O'Brien and members,

Introduction – John Van Doorn with the Ohio Association for Justice, the state bar association for attorneys... we are 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 one of our Constitutional rights ... and creates a special set of rules for an exclusive set of people...

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

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 testified, there is no liability crisis. They said they know of only a few lawsuits going back quite a number of years ... 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 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. I am told that some, perhaps many homeowner's policies have an exclusion referred to as "open peril exclusions", which applies to certain pets and pests. But there has been no assurance that insurance industry will waive the "open perils exclusion" for beekeepers if this immunity provision is enacted.

The proponents also hope this bill will help with local zoning and nuisance laws that discourage beekeeping within city limits. This problem is that a number of municipalities and townships have responded to their constituents by passing local ordinances prohibiting man-made beehives in their community ... because people in those communities don't want beehives in their backyards. Those objections aren't going to go away if this bill is enacted.

Want to acknowledge this bill is pretty restrained ... the civil immunity is qualified and it would apply to a pretty narrow set of circumstances... so the bill's impact, in practical terms, is negligible.

To qualify for the immunity, the beekeeper must (refer you to 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.

And the immunity only applies to bee stings ... which is a nearly impossible claim to establish ... bees aren't branded or don't have bands identifying what beehive they came from ... so it would be very difficult to say with certainty where the bees came from that stung you.

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.