

# Senator Mike Bishop Declares War on Democratic Process and Rational Public Policy

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For Immediate release

In a story that appeared in today's Grand Rapids News (4/20/09), Senate Majority Leader Mike Bishop has declared war on the majority of Michigan citizens. In every poll, and in the State House, they have voted overwhelmingly to repeal Michigan's drug industry immunity statute. Bishop has announced he will not allow a vote in the Senate or even in a Senate committee: "I don't have any intention of taking this up."

Attempting to justify his view, Bishop points to a University of Michigan study that estimates the contribution of bioscience (pharmaceutical and biotech companies) to Michigan's economy between 2002-2006. In fact, that study shows a precipitous *decline* in industry-related jobs, and this was *before* the economic collapse we have experienced over the past three years. There is neither data nor logic that backs Senator Bishop's claims.

Bishop also asserts that the struggle to end drug industry immunity is "politics of the worst kind" and that trial lawyers have "commandeered the Democratic party." This is hate-mongering of the worst kind, and it is, sadly, what we have come to expect from defenders of drug industry immunity.

Here are points of relevance:

- (1) In statewide polls, 70-85% of Michigan citizens are in favor of repealing drug industry immunity. Can they all be trial lawyers?
- (2) The most respected voices in American medicine, *The New England Journal of Medicine* and the *Journal of the American Medical Association*, have come out four—square against "FDA preemption," which is the doctrine that underlies Michigan's law (that FDA approval should fully shield a company from liability). It takes a critically important public health issue for mainstream American medicine to defend lawsuits. Have all the doctors also been "commandeered" by "trial lawyers"?
- (3) In the *Wyeth v. Levine* case, *every* member of the United States Supreme Court, including the three dissenters, wrote against the doctrine that underlies our Michigan law: that FDA approval should automatically bar product liability.

Writing the *dissent*, Justice Samuel Alito notes: “To be sure, state tort suits can peacefully coexist with FDA’s labeling regime, and they have done so for decades.”

*Does Senator Bishop imagine that Justice Alito, Justice Scalia, and Chief Justice Roberts have also been “commandeered” by trial lawyers? And does he view the six-justice majority in the case—including Justice Thomas—also playing “politics of the worst kind”? Does he view himself as better informed on these matters than all nine Justices of the United States Supreme Court?*

The reality is this. The suppression of democratic process and the politicizing of drug industry immunity are coming from Senator Bishop himself, and his allies. It would be as comforting as it would be misinforming to view the issue of drug industry immunity as one more example of Democrats versus Republicans, Trial Lawyers versus Commerce. But it is anything but.

The doctrine that underlies our Michigan immunity statute was described by the *New England Journal of Medicine* as a disaster for patient rights, industry accountability, and public health. This is not about politics. It is about the public good and rational public policy.

Let’s end the war. Let’s return facts and logic to the Michigan Senate. Let’s bring justice home.