

The Role of Lawyer-Legislators in Shaping the Law: Evidence from Voting Behavior on Tort Reforms*

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Abstract

Attorneys elected to the US Congress and to US state legislatures are systematically less likely to vote in favor of tort reforms that restrict tort litigation, but more likely to support bills that extend tort law than legislators with a different professional background. This finding is based on the analysis of 64 roll call votes at the federal and state level between 1995 and 2014. It holds when controlling for legislators' ideology and is particularly strong for term-limited lawyer-legislators. The empirical regularity is consistent with the hypothesis that lawyer-legislators, at least in part, pursue their private interests when voting on tort issues. Our results highlight the relevance of legislators' identities and individual professional interests for economic policy making.

Keywords: Lawyers, legislatures, rent-seeking, tort law, tort reform, voting behavior

JEL classification: D72, K13

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1 Introduction

There are many lawyers in U.S. legislatures. This raises a serious agency issue in a representative democracy when they draft and reform law that affects their business. The issue is more general though and refers to the question of whether and how the professional background of legislators is to play a role in state policy making. This is an important aspect of how political selection might matter for economic policy.¹ Insights are important to inform the choice of institutions that govern the representation of interests in politics such as ethics laws, recusal and disclosure rules, and incompatibility regimes.

We concentrate on lawyers² holding a seat in the legislature, so called lawyer-legislators, for several reasons. They form one of the most prominent groups as they often hold many seats (around one third of the Representatives in the US House have a professional background as attorney). They are, with few exceptions, members of the same professional association (in the United States, i.e., the American Bar Association and in the case of trial lawyers, the American Association for Justice). Moreover, they are experts on law, their political mandate is complementary to their business activity, and – importantly – they are involved in drafting rules that, depending on their design and implementation, generate more or less demand for legal services.

An important area is tort law where lawyer-legislators face a conflict of interest. In particular in the United States, where estimates of the total transactions generated by the American tort law system amount to USD 265 billion in 2010; i.e., 1.82% of GDP (Towers Watson 2012). Attorney fees account for a large part of that with estimates being 30% or higher.³ Plaintiff lawyers as well as defendant lawyers have a vital interest in preserving this system. In the literature on US-tort reform, the argument is carried over to lawyer-legislators trying to block reforms, that are meant to simplify and limit the scope of liability rules or restrict damages (e.g., Epstein 1988, Zywicki 2000, Rubin 2005). However, no systematic empirical evidence supports this claim. A related literature focuses on the dynamics of tort reforms and the drivers of certain types of reforms in the aggregate (Klick and Sharkey 2009, Miceli and Stone 2013) but omits specific lawyer interests.

¹ An introduction to the economic analysis of political selection is provided in Besley (2005). Analyses for specific professional groups refer to businessmen (Gehlbach et al. 2010) and public servants (Braendle and Stutzer 2010, 2011). This research pursues a positive analysis complementing older work on the “overrepresentation” of specific professional groups (e.g. Luce 1924).

² Our definition of lawyer in this study is based on the professional background of a person and not only on his or her education. Somebody who holds a degree from a law school but never practiced law is not counted as lawyer.

³ Estimates by the US Council of Economic Advisers (2004) are around 30%. However, taking into account the benchmark for privately negotiated contingency fees of around one third with “significant variation up and occasional variation down” (Eisenberg and Miller 2004, p. 35) and the additional defense costs, the 30% are rather a lower bound for the total fraction of tort transactions going to lawyers.

In this paper, we analyze whether lawyer-legislators are more likely than legislators with a different professional background to vote against tort reforms aimed at a reduction of the number and the size of tort cases. We do this by studying the voting behavior in the US Congress as well as in 17 US state legislatures between 1995 and 2014. The empirical analysis is based on a custom-made data set that we have compiled using new computational techniques to draw information from the rich online resource *Project Vote Smart*. We conduct the analysis separately for the federal and the state level. Based on the econometric analysis of 14 votes, we find that attorneys at the federal level vote with a 7.3 percentage points lower probability in favor of reforms than legislators with a different professional background *ceteris paribus*. At the state level and based on 38 votes, the probability for lawyer-legislators is 6.9 percentage points lower than for legislators with a different professional background. At the federal level, the effect is slightly more pronounced for attorneys belonging to the Democrats than for those belonging to the Republican Party. In general, Republicans are more likely than Democrats to support reform bills that restrict liability. Finally, our analysis allows us to contribute to the question whether the gender of legislators matters for the design of tort law. This question considers the suggested disproportionately negative impact of certain types of tort reforms on women.⁴ Indeed, female federal legislators are less likely to support tort reforms that restrict liability than their male colleagues, *ceteris paribus*.

In supplementary tests, we address a series of alternative explanations. First, we study whether attorneys in politics consistently vote differently from non-attorneys. We find neither evidence for a systematic and distinctive voting pattern in a repeated random sample of votes on issues other than tort, nor evidence that the voting behavior can be explained by ideological differences based on legislators' entire roll call records. Second, we investigate whether lawyer-legislators' voting behavior caters to specific preferences in their electorate rather than being motivated by private interests. We do not find evidence for this refined median voter hypothesis. Restricting the sample to narrow races with one attorney candidate and one non-attorney candidate, we find a voting pattern similar to the one overall. Moreover, legislators in the US House of Representatives who competed against attorneys in the electoral race are not more likely to oppose restricting tort reforms than legislators who faced competitors with any other professional background. For a restricted sample of votes at the state level, we find some support though that electoral incentives matter. Lawyer-legislators who face a binding term limit are more likely to vote in favor of an extensive tort law than lawyer-legislators that can be re-elected.

Throughout this study we conduct a positive politico-economic analysis. Therefore, our contribution

⁴See Section 2 for a review of the arguments.

should not be interpreted as an assessment of the tort reform process from a welfare perspective. We do not discuss what kind of tort law regime might be preferable for citizens. We rather uncover micro-evidence on the underlying forces that are driving the tort reform process and shape law in general.

This paper is organized as follows. In Section 2, we first review the arguments that emphasize the specific role of lawyers in legislatures. Second, we derive the political economy hypothesis that lawyer-legislators are more likely than legislators with a different professional background to oppose tort reforms. Section 3 describes the prerequisites for our empirical analysis, i.e., the data and the empirical strategy. The results on voting behavior at the federal and the state level are presented in Section 4. Section 5 offers concluding remarks.

2 Lawyer-legislators' interests in tort reforms

2.1 Lawyers in legislature

General sentiments about lawyer-legislators differ widely. On the one hand, there are concerns about the presence of lawyers in parliament going as far back as medieval England, where attorneys have temporarily been banned from parliament “because of their interest in stirring up lawsuits” (Warren 1911 cited in Roth and Roth 1989: 31). On the other hand, having legal skills is obviously an advantage when making laws. This is particularly the case for attorneys who hold offices or are members of committees related to the judicial system as pointed out by Hain and Piereson (1975). Moreover, lawyers as well as politicians are members of the so-called “talking professions” (Norris and Lovenduski 1995), hence a law school graduate’s rhetoric skills are clearly of advantage in politics.

The presence of lawyers in legislatures is especially prominent in the United States. Around one third of the Representatives in the US House have a professional background as attorney, whereas the share of lawyer-legislators across US state legislatures varies between 5 and 25 percent (in 2011; see Figure A.1 in the online appendix).

The significant presence of attorneys in US politics has attracted the attention of the social sciences at least since De Tocqueville (1838: 260), who describes the lawyers in America as “[...] the only enlightened class whom the people do not mistrust, [which is why] they are naturally called upon to occupy most of the public stations. They fill the legislative assemblies and are at the head of the administration; they consequently exercise a powerful influence upon the formation of the law and upon its execution.” More recent work

on lawyer-legislators focuses on their personal characteristics and attitudes as well as their motives to enter politics.⁵ On this basis, several theoretical suggestions concerning lawyer-legislators' behavior and capabilities in office have been put forward. A prominent theory proposes that many lawyers already have a political career in mind, when they choose to go to a law school. They are aiming at high positions in the government or public services and enter the legislature to start their careers (Podmore 1977). This perspective suggests that lawyer-legislators act close to the preferences of their party and the electorate in order to enhance their political careers. An opposing view comes from Schlesinger (1957) who argues that attorneys enter politics only for a short time period in order to boost their careers in private law practice. According to this latter perspective, lawyer-legislators are more likely than other legislators to act according to the policy preferences of the legal profession and/or the clients they are representing. Graves' (1946) observation, that lawyer-legislators were too busy dealing with their legal services business to focus on important legislative matters, supports this latter point of view.

Other prevalent theories about lawyer-legislators' behavior focus on their formative education at law schools and their specific professional skills. Hyneman (1940: 569) sees the attorney as an "accepted agent" of all political groups of the American people, who represents the citizens in legislature in the same manner as his clients in court. In a similar vein, Derge (1959: 432) describes the lawyer-legislator as an "intellectual jobber and contractor". However, he also points out that his clients come from special interest groups rather than the public in general. According to Graves (1946), the legal training at the law schools makes lawyer-legislators rather conservative and likely to defend the status quo. Miller (1995: 27) adds that legal training leads to a strong "rule and rationality orientation" that might threaten the political substance of lawyer-legislators' work in office.

Unlike this previous work on lawyer-legislators, we apply a political economics perspective. Lawyer-legislators – as all politicians – have individual preferences and goals that they pursue given their scope of action. Discretionary leeway in politics thereby emerges if reputation mechanisms are incomplete and no binding election promises are possible. To the extent that citizens do not fully know candidates' preferences and their position on specific policy issues because these positions are secondary or not salient at all⁶, voters cannot optimally "elect policies" as modeled in the so-called citizen-candidate framework (see the original

⁵Note that in this literature the term lawyer-legislator is sometimes used in a broader sense than how we define it in the introduction of this paper. In the literature overview presented here, lawyer-legislator does, therefore, not exclusively refer to the professional background of a legislator. It might also refer to her or his educational background. However, we think that the theoretical arguments discussed in this section also hold for our more restrictive definition of a lawyer-legislator.

⁶Recent work on the role of secondary policy issues and salience in election models include Besley and Coate (2003) and List and Sturm (2006).

contributions by Osborne and Slivinski 1996 and Besley and Coate 1997). Instead, politicians' individual preferences become key aspects in policy choices.⁷ This might involve their ideals of a productive law as well as more mundane private advantages. As one aspect, lawyer-legislators might thus keep an eye on the prospects of increasing their expected monetary income.

All members of a legislature can, of course, engage in politics catering to special interest groups with a view to personal benefits in return (future earnings or financial support for their campaigns). However, lawyer-legislators' private interests (in line with the interests of the legal services industry) are particularly linked to the design of the law. Attorneys in the legislature can directly, and in various ways, influence the very basis of their outside and future earnings.⁸ Some legislation has an influence on the demand for legal services, while other legislation directly influences the prices of legal services (for a general account of the market for lawyers, see Hadfield 2000). The former refers to rules that provide incentives to resolve disputes in court and/or generate the need for legal advice in order to avoid becoming involved in litigation in the first place. A simple example of this would be where the legal code is over-complex and provides numerous opportunities to litigate against natural or legal persons, and leads to substantial information asymmetry between attorneys and their clients (see, e.g., White 1992 on complexity). High prices for legal services can be achieved either by directly setting them by law or indirectly by easing anti-trust laws to facilitate price fixing.⁹ Other drivers of prices are the procedural rules that define the extent to which attorneys are free to set up contingency fee agreements.

2.2 Lawyer-legislators and tort reforms

Many of the rules that have a considerable impact on the demand for legal services can be found in US tort law. The US tort system has doubtlessly become big business for many lawyers (see the numbers reported in the introduction). Whether the system is also beneficial to consumers is controversially discussed, and US tort law has almost constantly been under reform pressure since the early 1980s (Sugarman 2002). In fact, by 2012 almost all state legislatures had passed one or several bills to change their mainly common-law-based law of torts. More recently, tort reform has also become a federal issue with several bills being passed by

⁷Evidence for the major role of individual preferences in roll call votes in the US Senate is presented in Levitt (1996).

⁸Recently, politicians' outside earnings and the trade-off with engagement in parliamentary work has received a lot of attention in political economics research. Theoretical considerations are formulated in Caselli and Morelli (2004), Besley (2005) as well as Mattozzi and Merlo (2008). Empirical evidence concerning politicians' compensation, outside earnings and effort in office is presented in Gagliarducci et al. (2010).

⁹Fixing prices for legal services is not unknown in the USA. Until the 1970s, the American Bar Association (ABA) had been recommending minimal fees to its members. In 1974, the United States Supreme Court judged that practice as price fixing and therefore as a violation of the Sherman Act (Handberg 1976).

the US House of Representatives.¹⁰ The great majority of tort reforms aims at reducing the number of tort suits as well as the amount of damages awarded. Avraham (2007), investigating the effect of six different types of tort reforms on medical malpractice settlement payments, shows that some reforms indeed reduce the number of annual payments while others reduce average awards. The reforms thus reduce the demand for certain legal services as suing is getting less attractive, and in some cases, also their price by either directly restricting contingency fee agreements or by indirectly reducing potential contingency fees through damage caps. Lawyers associations clearly oppose these reforms (Rubin and Bailey 1994, Rubin 2005) and lawyer-legislators might be loyal representatives of such special interest groups. The reforms also potentially reduce lawyer-legislators' outside and future income, in particular, if they are not full-time legislators. But even full-time representatives in the US House are likely to be affected by such reforms through their potential future income, taking into account that they are often only elected for two years. Besides that, lawyers as full-time legislators are likely to have close ties with other colleagues in the legal profession and/or are co-owners of a law firm. Attorneys in legislatures therefore have an incentive to prevent such reforms for private interests. They have many ways to do so. They can oppose or water-down tort reform legislation in the judiciary committee of the respective legislature. Another option is to actively organize opposition to the proposed bill, if necessary involving logrolling. The most obvious action is to vote against it. Since the latter action is clearly observable, we propose the following hypothesis to empirically test the theoretical considerations:

Legislators with a professional background as attorney vote against tort reforms that aim to reduce the number of suits and the amount of damages awarded with a higher probability than the average legislator with a different professional background.

In the few cases that a bill on tort reform actually extends the liability, we expect, based on the same theoretical considerations, lawyer-legislators to support it in the interest of their business.

The existing literature on lawyer-legislators' voting behavior focuses on their educational background and does not directly test political economy hypotheses. It rather explores differences in voting behavior between

¹⁰Whether this reform process is indeed transforming the US tort system towards a regime that is more beneficial for consumers is a controversial issue in the law and economics literature. If any opinions of scholars can be described, they are, at least in the early phase of the reform process, rather in favor of tort reforms (see the symposium on the economics of liability in the *Journal of Economic Perspectives*, Shapiro 1991). Specific aspects of tort liability are still controversially discussed by leading scholars without a clear consensual result (see, e.g., the prominent discussion about product liability in the *Harvard Law Review* between Polinsky and Shavell 2010a, b and Goldberg and Zipursky 2010). In this study, we do not discuss which type of tort system is preferable from a welfare perspective. It is important to note, however, that given the state of the literature, lawyer-legislators (although experts of the law) are not expected to know any better. It is thus rather unlikely that lawyer-legislators vote systematically different than other legislators because of their superior knowledge.

lawyers and other legislators across a broad range of issues without reaching a consistent conclusion.¹¹

2.3 Partisan considerations and women in legislature

Regarding voting behavior on tort reform bills, the professional background of the legislators is of course not the only relevant factor. First of all, there is party affiliation. It has been argued that tort reforms have become a highly partisan issue with the Republicans defending the interests of the business community in favor of reforms and the Democrats being pro plaintiff and against reforms (Sugarman 2002). However, historically and ideologically the positions concerning tort reform of these two parities are not clear (Sugarman 2006). According to Zywicki (2000), the Democrats' opposition to such reforms can partly be explained by generous campaign contributions from trial lawyers. Anecdotal evidence suggests furthermore that lawyer-legislators of the Democrats tend to be trial lawyers, whereas Republican lawyer-legislators tend to be defendant lawyers. We take this aspect into account by restricting the sample in some analyses to Democrats or Republicans only.

Second, the gender of representatives might be of particular importance when studying voting behavior in the context of tort reforms. Recent research has shown that women's identities matter for policy outcomes and that women in legislatures have different voting patterns than men, especially if the votes are about issues concerning children, family or women.¹² Even though tort law does not *de jure* treat women differently from men, there are arguments that it affects women *de facto* differently. In particular, it has been hypothesized that caps on non-economic damages have adverse effects on women and the elderly (Finley 2004 cited in Sharkey 2005). Women are likely to be awarded less in direct economic damages, because they either do not work or earn less. Damages on pain and suffering are therefore crucial for the total amount of damages they can receive. With non-economic damages capped, attorneys might therefore "disproportionately screen out claims by women", making it harder for women to claim any damages (Sharkey 2005: 490). Moreover, in the particular field of medical malpractice tort law, Rubin and Shepherd (2008) find that caps on non-economic

¹¹On the one hand, Dyer (1976) finds only a relatively small difference between lawyers and non-lawyers for voting on no-fault insurance proposals in four different US state legislatures, while Engstrom and O'Connor (1980) find lawyer-legislators to be more supportive of reforms that strengthen the legislative branch of government than non-lawyers. On the other hand, Derge (1959, 1962), investigating votes on bills with different social and economic issues in three US state legislatures, finds no evidence for a systematically different voting behavior of lawyer-legislators and generally no tendency for lawyer-legislators to vote with cohesion. Green et al. (1973: 450) investigate the voting behavior of lawyers in US Congress on issues specifically related to the US Supreme Court over the years 1937 to 1968 and conclude in the same vein as Derge that "the legal profession variable is justifiably branded as irrelevant".

¹²See Chattopadhyay and Duflo (2004) for women in politics and policy outcomes and Swers (2001) for an overview of female representatives' behavior in US state legislatures and US Congress. In addition to the differential voting behavior of female representatives, Washington (2008) shows that conditional on a congressperson's total number of children, an additional daughter increases the representative's propensity to vote more liberal, in particular on women's issues.

damages have a disproportionate positive effect on the non-motor-vehicle accidental death rates of women relative to men. Shepherd (2008) also finds evidence for her hypothesis that restrictions of non-economic damages and punitive damages disproportionately reduce doctors' care levels for women and that women at the same time benefit less from these reforms' increases in doctors' activity levels. Some of the votes analyzed in this paper concern medical malpractice issues.

3 Empirical approach

3.1 Data

In order to test our hypothesis, we have compiled a data set with the voting records from 64 votes on 48 different bills concerning tort law issues in 17 US state legislatures and the US Congress between 1995 and 2014.¹³ All 14 votes on the federal level concern bills that restrict liability. In that sense, they are typical tort reform bills, aimed at reducing the amount of damage payments and/or the number of tort cases, e.g., by introducing non-economic damages caps. At the state level, 12 of the total 50 votes concern bills that extend the existing tort liability, e.g. remove non-economic damages caps. Each voting record consists of a list of all members of the respective legislature and how they voted. Our dependent variable composed from these voting records is equal to 1 if the representative voted yes (or pair yes) and 0 if he or she voted no (or pair no).¹⁴

We have linked these voting records to biographical information on each representatives' professional background, party affiliation, gender, bar affiliation as well as age and level of education. We take the latter two pieces of information into account in order to control for socio-demographic characteristics that are potentially correlated with voting behavior. Thereby, the variable higher education captures legislators with a college degree. In addition, we include an indicator variable that is equal to 1 if the legislator holds a degree from a law school (i.e., a JD, SJD, LLM or LLB) but neither has been working as an attorney nor is a member of a bar association. The covariates attorney, Republican, female, bar associate (but not attorney), and higher education are also coded as 1/0 indicator variables.

Overall, only twelve observations from federal voting records are removed from the data set due to

¹³The US states included in our analysis are Arizona, Colorado, Florida, Illinois, Kansas, Louisiana, Michigan, Missouri, Mississippi, North Carolina, New Jersey, Nevada, Oklahoma, Pennsylvania, Tennessee, Utah, and Wisconsin. The choice of these states is not explicit, but due to the data compilation process described in this section. The appendix presents a list with all votes used in our study.

¹⁴Voteless members, e.g., delegates, and members who abstained from voting are excluded from the data set. Including absentees as legislators favoring the status quo (with the dependent variable equal to zero) does not meaningfully affect the results neither qualitatively nor economically. Details of these alternative analyses are available on request.

missing biographical data (Table A.1 in the online appendix presents a complete accounting of the number of observations per vote). Biographical data on the members of state legislatures often lack dates of birth. We therefore exclude the variable age in our state-level analyses.¹⁵ In the state-level sample, there are no voting records removed due to missing biographical data. The adjusted data set thus consists of 5,255 observations from federal votes and 3,595 observations from state-level votes. These observations involve 1,413 individual lawyer-legislators in the US Congress and 383 individual lawyer-legislators in US state legislatures. Table 1 shows some descriptive statistics for all the explanatory variables, once based on the individual votes as units of observation and once based on the individual legislators as units of observation.

[Table 1 about here]

Figure 1 provides a first impression of how these variables of interest are jointly distributed, which indicates support for the basic hypothesis. Legislators with a professional background as attorney seem to be less likely to vote yes in reforms that potentially harm the legal services industry.

[Figure 1 about here]

The finding in Figure 1 is not driven by partisan preferences, i.e. that lawyers would be primarily Democrats opposing reforms. As reported in Table 2, the difference between lawyer-legislators and other representatives is rather found within both parties and at both levels.

[Table 2 about here]

All our data is drawn from Project Vote Smart (PVS) using the open source interface pvsR.¹⁶ PVS maintains an online data collection on candidates for and officials in public office in the United States, including legislators of the US Congress and US state legislatures. It provides voting records on so called “key-votes” which are selected by a group of political scientists and journalists from all US states. According to Project Vote Smart (2012), the main criteria for this selection are:

1. “The vote should be helpful in portraying how a member stands on a particular issue.”
2. “The vote should be clear for any person to understand.”
3. “The vote has received media attention.”

¹⁵However, we also check for the robustness of the results when including the age variable and thereby losing observations. The results remain qualitatively the same. Details for these analyses can be provided on request.

¹⁶See www.votesmart.org and Matter (2013).

4. “The vote was passed or defeated by a very close margin.”

Usually all of these four criteria must be met.¹⁷ This helps to ensure that the votes we analyze are, in a broad sense, of political relevance. Moreover, the non-partisan selection procedure of key votes is overseen by academics across the political spectrum and completely independent of the authors of this study. This ensures that the sample of roll call votes analyzed in this study should not be biased with respect to our hypothesis. Within this pool of key bills, we have used an algorithm to search in each bill description for tort law-related terms such as “tort”, “product liability”, and “medical malpractice”.¹⁸ The resulting list of votes was then checked manually to make sure that only votes clearly concerning tort reforms are included.¹⁹

Legislators’ individual characteristics were extracted from PVS’ biographical data records based on a similar search algorithm as used for the automatic bill selection.²⁰ We coded a representative as having a professional background as attorney if the section “Professional Experience” mentioned either “attorney”, “lawyer”, “private law practice” or “law firm”.²¹ The focus of our empirical analysis is thus on the occupation as attorney and not on the field of study. If a representative obtained a “BA” or a higher college degree, we defined him as having a higher education. Variables capturing party affiliation, gender, age, bar admission, and law degrees are directly taken from the representatives’ biographical records.²²

Our novel data compilation technique allows us to gain accurate biographical information on hundreds of representatives from different legislatures. This is generally a difficult task, because biographical data usually has several different sources, each being differently structured. Furthermore, the way the original information is collected supports its accuracy, since there are no obvious incentives for representatives to strategically give wrong information about themselves. The data is easily accessible through the Internet, and thus exposed

¹⁷In some cases, exceptions are made, e.g., if there was no close margin, but the vote received an unusually large amount of coverage in the media.

¹⁸In particular, we searched in the title of the bill, the described highlights of the bill as well as in the synopsis of the bill. The search algorithm as well as a table of all the tort law-related terms used in it can be found in the online appendix (Algorithm A.1 and Table A.2).

¹⁹In total, 39 votes identified by the automated search process were later removed during the manual check. The main reason for exclusion was that the bills neither limit tort liability nor extend it (e.g., a bill that revises tax laws for small businesses and thereby also regulates how punitive damages can be taxed.). Table A.4 in the online appendix presents details on all the excluded votes and the reasons for exclusion.

²⁰Biographical data on candidates and officials provided by PVS in so-called ‘candidate profiles’ are based on a biographical form that each candidate is asked to fill in when running in a general election. Candidates or elected politicians can update this biographical form later on.

²¹The search algorithm to extract information from the biographical records as well as how it was applied to identify lawyer-legislators is presented in the online appendix (Algorithm A.2 and Table A.3). In addition, we have systematically improved the coding with extensive manual checks and additional manual coding of special cases.

²²To foreclose (based on PVS’ biographical records) whether a legislator with a law degree has never practiced law is in some cases not straightforward (i.e., some legislators mention that they are co-founders or partners of a company without mentioning the company’s line of business). We therefore cross-checked our data for all legislators that we identified as having a law degree but neither having a professional background as attorney nor being a bar member. We considered a series of other data sources (e.g., the legislature’s official website, the legislators’ wikipedia entries, and the websites of firms the legislator was founding or working for according to his biographical record).

to screening by political opponents as well as the media.

3.2 Empirical strategy

We apply different estimation strategies to empirically test our hypothesis. For reasons of simplicity, we mainly present linear probability models (LPM) estimated with OLS. Formally, such a model can be described as

$$p_i = P(y_i = 1|x_i) = E(y_i|x_i) = x_i'\beta \quad (1)$$

where p_i is the probability, that representative i votes yes, y_i is the dependent variable describing the representative's vote, x_i is a vector of explanatory variables describing representative i , and β is the vector of regression coefficients. As several representatives vote several times in our sample, we use heteroskedasticity robust standard errors clustered at the individual level to test the statistical significance of the regression coefficients.²³ The linear probability model has the advantage of permitting a straightforward interpretation of the coefficients. They can be read as marginal effects of the corresponding variables on the probability of voting 'yes'. Moreover, the interaction effects that we include in some specifications would be difficult to estimate and interpret in a nonlinear model (see Ai and Norton 2003 for a short discussion of the issue). The downside of this approach is that modeling a probability in this manner suffers from misspecification in the sense that the estimated β 's might imply probabilities that are greater than 1 or less than 0. We therefore additionally estimate a logit model in the form of

$$p_i = P(y_i = 1|x_i) = F(x_i'\beta) = \frac{\exp(x_i'\beta)}{1 + \exp(x_i'\beta)}. \quad (2)$$

Independently of the estimation approach, we control in a flexible way for the variation in unmeasured characteristics of the constituencies across states by including state dummies in the pooled analysis at the federal level. Specifically, we use state fixed effects to control for a state's industry structure. Depending on the industry structure, one might well hypothesize that legislators support an extended tort system in order to redistribute damage awards from out of state industry to home state consumers. Citizens from these states might also send more attorneys to congress leading to confounded estimates of the effect of

²³ Additionally, we cross check our results for both the federal and the state level by re-estimating our main specifications on samples that contain each legislator only once. This ensures that we do not overestimate the statistical significance of the findings due to repeated votes by the same individuals. The results of these additional analyses are qualitatively very similar to our baseline results. We provide these additional results upon request.

a legislator's professional background as attorney on the probability of voting against a restriction of tort liability. Moreover, we control for bill fixed effects in all pooled analyses at the federal and the state level. Besides accounting for distinct legal aspects within certain bills (and the state the bill is voted on in the case of state level votes), the inclusion of bill fixed effects also controls for the timing of the bills and the respective votes. At the state level, we include bill fixed effects to take into account that attorneys in state legislatures with many lawyer-legislators might support reforms less than their co-legislators but still generally more than lawyer-legislators in states where lawyer-legislators form a small minority. Without bill fixed effects this constellation might spuriously lead to a reverse effect.

The default maximum likelihood estimation of different specifications of (2) based on our dataset implies, in some cases, a nonidentifiability problem due to complete separation. The separation arises because some explanatory variables (or linear combinations of them) are perfectly predictive of voting yes or no. For example, at the federal level, the sole representative of Alaska always voted yes, hence the state indicator "Alaska" is a perfect predictor of voting yes. Nonidentifiability due to (quasi-)complete separation in the data is well known in the econometrics literature, it is, however, often ignored in applied research. Similar to the problem of multicollinearity, the separation problem leads to essentially meaningless results (maximum likelihood estimates from a logit model with (quasi-)complete separation are simply a function of the iteration procedure). It could be argued that removing observations of the representative of Alaska from the sample is a reasonable approach to deal with this problem (but it would mean to remove potentially important information from the sample). However, the problem also arises in some estimations for individuals' characteristics (e.g., because in some votes at the state level all attorneys voted against the reform). Removing these observations from the sample is for obvious reasons not a sound solution to the separation problem. To overcome this problem, we apply the approach suggested in Gelman et al. (2008) to estimate the coefficients of the logit models.²⁴ The estimated coefficients can be interpreted like the ones from a usual logit model. For several of them, we calculate discrete effects on the probability of voting in favor of a reform.²⁵ This

²⁴Gelman et al. (2008: 1363f) present a default logistic model for routine use by applied researchers that is "better than the unstable estimates produced by the current default - maximum likelihood". The method of Gelman et al. (2008) is essentially an adoption of the classical maximum likelihood algorithm and assigns independent Cauchy prior distributions to all logistic regression coefficients with center 0 and scale set to 2.5 to coefficients of binary predictors, $2.5/(2x \text{ standard deviation of the numerical predictor})$ to coefficients of numerical predictors, and scale 10 to the constant term. Like the default maximum likelihood estimator for logit models, this alternative algorithm computes point estimates and standard errors. The method is, however, robust to (quasi-)complete separation and thus produces always meaningful results. Among other applications, Gelman et al. (2008) demonstrate the effectiveness of their method with a model predicting the probability of a Republican vote for president depending on a voter's demographic characteristics. In cases where no complete separation exists in our analyses and estimation using default maximum likelihood is feasible, we cross-check the coefficients obtained from Gelman et al.'s method with those estimated with default maximum likelihood. In all these cases, the results are qualitatively the same and often close to numerically identical. For reasons of simplicity, we therefore present in all applications of logit models in this study only the coefficients estimated with the robust method.

²⁵We favor discrete effects over marginal effects for two reasons. First, applying the partial derivative formula to estimate

facilitates their interpretation and allows a comparison with the OLS estimates. We report discrete effects as the mean of all individual differences in predicted probabilities in the respective sample. We thus set once for all observations the attorney variable to 1, and once for all to 0, compute the predicted probability of voting yes for both cases and average over all the differences between the respective two predicted probabilities of voting yes. Formally, this can be expressed as

$$\frac{1}{n} \sum_{i=1}^n [F(x_i' \hat{\beta} | x_{il} = 1) - F(x_i' \hat{\beta} | x_{il} = 0)] \quad (3)$$

where F denotes the cumulative density function of the logistic distribution, x_i is a vector of explanatory variables describing observation i , $\hat{\beta}$ is a vector of the estimated coefficients, and x_{il} is the indicator variable of interest (e.g. attorney).²⁶

Based on the empirical strategy, we first analyze attorneys' differential voting behavior. Second, a series of robustness checks as well as complementary tests of the private interest hypothesis are discussed.

4 Results

We present our main results separately for reform bills at the federal level and for those at the state level. Additionally, we present for the federal level estimations based on subsamples only containing Democrats or Republicans, respectively. We primarily test whether attorneys are statistically significantly less likely than non-attorneys to vote for reforms that restrict tort litigation (or more likely to support extensions of tort law). Our focus is on estimates based on pooled data from many votes. However, we also refer to results for single votes in order to check whether the general findings are driven by one or very few of the votes. In complementary analyses, we test alternative explanations and simulate voting results assuming a strict recusal rule.

marginal changes in probabilities in a logit model can yield nonsensical results that violate the rule that probabilities should sum to 1 (Caudill and Jackson 1989). Second, in our setting the explanatory variables of most interest are all binary, and computing the effect of an infinitesimal change of such variables can be highly inaccurate (Winkelmann and Boes 2006) and, with regard to content, inappropriate (i.e., the effect of an infinitesimal change in having a professional background as attorney).

²⁶Based on the arguments presented in Hanmer and Ozan Kalkan (2013), we prefer this approach over presenting discrete effects for a typical (average) observation. In order to make our results fully comparable with other studies, we additionally report for our main results the size of discrete effects for the average observation.

4.1 Tort reform bills at the federal level

Table 3 presents the results based on twelve votes in the US House of Representatives and two votes in the US Senate. All estimations include state and bill fixed effects. According to the OLS estimation in specification (1), attorneys are 7.3 percentage points less likely than non-attorneys to vote in favor of reforms. The effect is highly statistically significant and supports the hypothesis that lawyer-legislators pursue a distinct voting behavior that is in line with the profession's business interest. The effect holds *ceteris paribus*. In particular, it is taken into account that Republicans are around 84.6 percentage points more likely to support reform bills than Democrats. Moreover, female legislators are less likely than their male colleagues to support tort reforms. The estimated coefficient is -3.5 percentage points. No statistically different voting behavior is observed for people with a higher education and with a higher age. Interestingly, legislators that have a degree from a law school but are not practicing law are not less likely to support reforms. While the finding has to be put in perspective given the sample of 122 votes from 29 representatives, it suggests that studying law does not generally motivate legislators to vote against reforms.

[Table 3 about here]

The re-estimation of the baseline model using logit (2) indicates that the main findings are robust to the estimation method. As the logit coefficients cannot be interpreted directly, we report effects calculated as the mean of all discrete differences in probabilities in our sample.²⁷ While non-attorneys have a baseline probability to support reform bills of 0.572, the probability is 0.504 or 6.8 percentage points lower for attorneys. For Republicans versus Democrats, the difference is 84.7 percentage points. Associates of the bar for whom no law practice is observed follow the attorneys in their voting behavior. Attorneys and their fellow interest group members thus vote aligned according to the logit specification. Finally, female legislators are 2.7 percentage points less likely to support tort reforms than male legislators according to this alternative estimation approach.²⁸ In two additional specifications (3) and (4), OLS models are estimated separately for a sample of only Democrats and one of only Republicans. The results indicate that attorneys in both parties deviate systematically from their fellow members' voting behavior. The estimated coefficients of -7.0 percentage points in the sample of Democrats, and -6.3 percentage points in the sample of Republicans are of similar magnitude.²⁹

²⁷ Figure A.2 in the online appendix illustrates how the individual discrete effects are distributed in our samples.

²⁸ Discrete effects based on the average observation are substantially larger. According to this alternative measure, the difference in the probability of voting in support of a reform bill is -29.85 percentage points for attorneys, +91.51 percentage points for Republicans, and -12.45 percentage points for women.

²⁹ If instead an interaction term between attorney and party affiliation is included, the baseline effect for attorneys from the

Tables A.5 and A.6 in the online appendix show that the findings for the pooled data are not driven by single votes. For 13 of the 14 bills at the federal level, we find that attorneys are less likely than non-attorneys to support them. In seven cases, the partial correlation is also statistically significant. For the variable party affiliation, we find strong positive effects for Republicans throughout. For female legislators, the estimated support of reforms is statistically significantly lower than for male legislators in seven cases.

4.2 Tort reform bills at the state level

Results for state-level tort reforms based on pooled data are presented in Table 4. All estimations include bill fixed effects. The baseline specification (1) shows similar results for the state as for the federal level. Attorneys are less likely to support bills that restrict tort law than are non-attorneys. The estimated statistically significant effect is -6.9 percentage points. Republicans are 83.7 percentage points more likely to support restricting reforms than Democrats. Unlike at the federal level, female legislators do not vote significantly differently from male legislators. The level of education seems also not to make a difference for voting behavior in tort issues.

[Table 4 about here]

The main results hold if the theoretically more appropriate logit estimator is applied. According to the discrete effects based on the coefficients in specification (2), attorneys are on average 6.7 percentage points less likely and Republicans 83.6 percentage points more likely to support restricting tort reforms at the state level than non-attorneys and Democrats.

For the twelve votes on bills that proposed an extension of tort law at the state level, the results in specifications (3) and (4) reveal an inversion of the partial correlations consistent with the central hypothesis of our study. The coefficients of the linear model (3) indicate that attorneys are 7.9 percentage points more likely to support an extension of tort law than non-attorneys. Republicans support it with a 82.6 percentage points lower probability than Democrats. Consistent with the idea that women benefit relatively more from an extended tort law than men, results for female legislators indicate a higher support by 6.0 percentage points. The respective effects based on the logit model in specification (4) are all qualitatively the same and quantitatively very similar.³⁰

Democratic Party is -0.066 (t-value = -3.24), and the linear combination for Republican attorneys is -0.079 (t-value = -7.41).

³⁰The effects computed for the average observation are again larger. In the case of restricting reforms on the state level, the difference in the probability of voting in support of a reform bill is -22.54 percentage points for attorneys and 91.36 percentage points for Republicans. In the case of extending reforms, the difference in the probability of voting in support of a reform bill is +22.63 percentage points for attorneys, -86.73 percentage points for Republicans and +18.19 percentage points for female legislators.

The generality of the main result for attorneys across the individual votes at the state level is graphically presented in Figure 2. Attorney coefficients from linear models individually estimated for each roll call vote on the state level are plotted separately for bills that involve an extension and for bills that involve a restriction of tort law. The shape of the marks indicates the statistical significance of the partial correlations. The distribution of the marginal effects clearly shows that for extensions of tort law, support by attorneys is higher in all but one case. For bills that proposed a restriction of tort law, attorneys in most cases are less likely to vote yes than non-attorneys. There are only five cases where the effect is small and positive (but none of them is statistically significant). These results are not only congruent with our hypothesis that lawyer-legislators vote on tort issues in favor of the legal services business, but they also contradict the prevalent theory that lawyer-legislators' actions in office are conservative and mainly aimed at defending the status quo. Even though the lawyer-legislators' voting behavior in votes on typical tort reform bills restricting tort liability might be interpreted as a preference towards the status quo, this does not at all hold for bills that extend tort liability.

[Figure 2 about here]

4.3 What if...? Hypothetical voting results assuming a strict recusal rule for attorneys

In order to provide an assessment of the material importance of attorneys' voting behavior (being indicative of their influence in committees and the legislative process in general), we conduct an explorative simulation of the possible vote outcomes if there were a strict recusal rule applied for attorneys in decisions on tort law (see the online appendix for some further comments and a data table). Thereby, we have to ignore any reactions and dynamics resulting from a strict recusal rule. While at the federal level, the outcome for the ten bills that passed would not have been different, at the state level it would have been: 37 instead of 35 (of the total of 38) bills that restrict tort law would have passed. Regarding bills that extended tort law, only 9 out of the actual 12 reforms bills would have been approved. Lawyer-legislators thus were pivotal in five out of 50 cases at the state level.

4.4 Tests of alternative explanations

The results shown above clearly indicate that lawyer-legislators' voting behavior in votes on tort issues is distinct from legislators with a different professional background. The partially differential voting behavior of legislators with a law degree, but not practicing law, moreover suggests that lawyer-legislators' voting behavior cannot simply be ascribed to their superior knowledge of the law. Rather than reflecting private interests, the results may, however, also come about because lawyer-legislators vote differently in general or cater to their electorate. We explore these alternative explanations in supplementary analyses (as described in detail in the online appendix) and present here a summary of the findings.

Are lawyer-legislators simply different?

Attorneys might generally vote differently from other legislators on various issues including tort law. While such an explanation runs counter to the existing empirical literature on the general voting behavior of lawyer-legislators (as discussed in Section 2.2 of this study), we directly confront it with our data. First, we analyze whether lawyer-legislators vote systematically differently in votes on various other bills by a similar magnitude as observed for tort reforms. For this, we consecutively draw 200 samples for the federal and state level with a random selection of bills included in PVS and estimate our logit baseline specifications (as in Tables 3 and 4). The results indicate that it is possible to gain some statistically significant coefficients for attorneys in arbitrary sets of votes on various issues. The size and statistical significance of the coefficients, however, never come close to those of the coefficients in our original analyses. The voting behavior of lawyer-legislators that we observe in votes on tort law issues can thus not be explained by lawyer-legislators voting differently in general.

Second, we test whether the difference in voting behavior can be statistically accounted for by lawyer-legislators' complete roll call records. The stance on tort reforms might reflect a general political orientation that characterizes lawyer-legislators independently of their specific business interests. Accordingly, we include the prominent DW-Nominate roll call measure as a proxy for ideology in our specifications at the federal level. The OLS results indicate that legislators who are one standard deviation more conservative than average support a restricting tort reform proposal by a 21.1 percentage points higher probability (statistically significant at the 1% level).³¹ Moreover, the attorney indicator remains an important explanatory factor both

³¹The gender difference is not sizable and statistically significant anymore when controlling for the complete roll call record of legislators. This suggests that there are no gender-specific aspects in voting behavior on tort reforms that go beyond what is captured in such an ideology measure (reflecting women legislators' generally more liberal position).

in magnitude and in statistical significance. In the OLS estimation, the effect amounts to 6.1 percentage points (relative to the 7.3 percentage points in the baseline estimation in Table 3). The difference in lawyer-legislators' voting behavior on tort issues can thus not be statistically accounted for by their complete roll call record.

Third, we study whether the voting pattern is more pronounced for lawyer-legislators who indicate recent activity as attorneys than for those who practiced more in the past. Evidence in this direction might suggest that differences in voting behavior are due to business interests. Accordingly, we divide the attorneys into two groups: one mentioning an occupation as attorney as the most recent professional activity in their biographical record and one mentioning any occupation as attorney that lies either farther back in time or is not mentioned as the primary occupation. While recently active attorneys are 7.7 percentage points more likely to support an extended tort law than non-attorneys, the respective effect for the other attorneys is 4.4 percentage points. This pattern fits the interpretation that it is rather private economic interest than a generally higher faith in the tort system that is driving the differential voting behavior.

Do lawyer-legislators follow specific voter preferences?

Whether attorneys in politics happen to cater with their voting decisions to specific voter preferences opposing tort reforms independent of their private interests is inherently difficult to judge. In our empirical analysis for the US Congress, we control in a most flexible way for variation in tort-specific policy preferences across US states and include state fixed effects. However, there might still be specific voter preferences reflected in the election of an attorney that characterize an electoral district independent of, for instance, general ideology. We pursue three tests to approach this alternative explanation. First, based on the idea of narrow election results exploited in regression discontinuity designs such as in Lee (2001), we compare the voting behavior of lawyer-legislators that won against a non-attorney candidate with the voting behavior of non-attorneys that won against an attorney candidate by a narrow margin. If these constellations capture similar underlying voter preferences, no systematic difference in voting patterns on tort reforms is expected. However, the estimation results reveal a highly statistically (and economically) significant negative effect for attorneys in all the specifications. This evidence suggests that our findings are not driven by differences in constituency preferences.

Second, in a test similar to the first one, we additionally ask whether non-attorneys responding to an attorney challenger are less likely to vote in favor of restricting tort reforms. In particular, this is presumed to hold if the election was won by a small margin, indicating that both candidates had positioned themselves

close to each other. However, we do not find any evidence supporting this alternative explanation. For legislators running against an attorney, a small statistically insignificant partial correlation is observed that is driven not by the close races but those with a clear non-attorney winner.

Third, in an illustrative analysis, we explore whether lawyer-legislators vote differently when not facing re-election incentives due to term limits. Based on data from the four states with lifetime term limits in our data set, we find a small statistically insignificant positive effect of 4.1 percentage points for attorneys who have the possibility to run again and a large statistically significant positive effect of 6.8 percentage points for attorneys who face a binding term limit. The illustrative evidence is consistent with a refined hypothesis that the pursuit of private interests is more likely when facing weaker electoral incentives. Vice versa, the phenomenon of attorneys' voting behavior overall cannot be explained by specific voter preferences.

5 Concluding remarks

Attorneys elected to the US Congress and to US state legislatures are systematically less likely to vote in favor of tort reforms that restrict tort litigation, but more likely to support bills that extend tort law than non-attorneys. This finding is based on the analysis of 14 votes at the federal level and 50 votes at the state level (or in total 8,862 decisions of individual legislators) between 1995 and 2014. The empirical regularity is consistent with our hypothesis that lawyer-legislators, at least in part, vote in line with attorneys' business interests when they vote on tort issues. A set of alternative explanations is explored that, however, cannot account for the observed pattern in voting behavior. Additionally, we find that legislators from the Republican party are more in favor of restricting tort law. Finally, women in Congress support restricting tort reform bills systematically less than men *ceteris paribus*. This difference, however, can be accounted for by their individual roll call record in other bills as captured in a measure of ideology.

In a broader perspective, the findings highlight the relevance of legislators' identities and individual professional interests for economic policy making. Legislatures should thus not solely be understood as platforms where policy preferences of constituents and special interest groups are balanced. It rather matters, how institutions shape incentives for citizens to pursue a political career and for parties to nominate candidates with specific characteristics. In our context, institutional factors that narrow the lawyer-legislators' discretionary scope of action and/or affect the demand and supply of lawyers for political mandates might well affect the substance of tort law. Recusal rules and ethic laws in general aimed at limiting lawyer-legislators' conflicts of interest are known in the US Congress and many US state legislatures, but their merit and effectiveness

is far from clear (Carpinello 1989). Furthermore, little is known about the institutional determinants of the representation of lawyers in politics so far (for an exception, see Rosenson 2006).

Our work suggests further research in at least two directions. First in terms of methods, we believe that data from sources such as PVS offer a great potential for quantitative research (or data-driven computational social science, Lazer et al. 2009) in areas such as political economics, political science and empirical legal studies. The data allows fully reproducible research in terms of data collection, data editing and data analysis. Studies can relatively easily be replicated and extended with additional waves of data such as new voting records. Moreover, new opportunities are opened up in combining accurate data sources on individual politicians' behavior and their identities. Second, in terms of substance, it might be worthwhile to further explore tort law as endogenous to the political process. What are the determinants of tort reforms? This might help to disentangle economic outcomes attributed to tort law from underlying political forces.

References

Ai, C. and Norton, E. C. (2003). Interaction Terms in Logit and Probit Models. *Economics Letters*, 80(1):123–129.

Avraham, R. (2007). An Empirical Study of the Impact of Tort Reforms on Medical Malpractice Settlement Payments. *Journal of Legal Studies*, 36(S2):183–229.

Besley, T. (2005). Political Selection. *Journal of Economic Perspectives*, 19(3):43–60.

Besley, T. and Coate, S. (1997). An Economic Model of Representative Democracy. *Quarterly Journal of Economics*, 112(1):85–114.

Besley, T. and Coate, S. (2003). Elected Versus Appointed Regulators: Theory and Evidence. *Journal of the European Economic Association*, 1(5):1176–1206.

Braendle, T. and Stutzer, A. (2010). Public Servants in Parliament: Theory and Evidence on its Determinants in Germany. *Public Choice*, 145(1-2):223–252.

Braendle, T. and Stutzer, A. (2011). Selection of Public Servants into Politics. WWZ Discussion Paper 2011/06, Faculty of Business and Economics, University of Basel.

Carpinello, G. F. (1989). Should Practicing Lawyers Be Legislators? *Hastings Law Journal*, 41:87–130.

Caselli, F. and Morelli, M. (2004). Bad Politicians. *Journal of Public Economics*, 88(3-4):759–782.

Caudill, S. B. and Jackson, J. D. (1989). Measuring Marginal Effects in Limited Dependent Variable Models. *Journal of the Royal Statistical Society. Series D*, 38(3):203–206.

Chattopadhyay, R. and Duflo, E. (2004). Women as Policy Makers: Evidence from a Randomized Policy Experiment in India. *Econometrica*, 72(5):1409–1443.

De Tocqueville, Alexis (1838). *Democracy in America*. G. Dearborn & Company, New York, NY, 3rd edition.

Derge, D. R. (1959). The Lawyer as Decision-Maker in the American State Legislature. *Journal of Politics*, 21(3):408–433.

Derge, D. R. (1962). The Lawyer in the Indiana General Assembly. *Midwest Journal of Political Science*, 6(1):19–53.

Dyer, J. A. (1976). Do Lawyers Vote Differently? A Study of Voting on No-Fault Insurance. *Journal of Politics*, 38(2):452–456.

Eisenberg, T. and Miller, G. P. (2004). Attorney Fees in Class Action Settlements: An Empirical Study. *Journal of Empirical Legal Studies*, 1(1):27–78.

Engstrom, R. L. and O'Connor, P. F. (1980). Lawyer-Legislators and Support for State Legislative Reform. *Journal of Politics*, 42(1):267–276.

Epstein, R. A. (1988). The Political Economy of Product Liability Reform. *American Economic Review*, 78(2):311–315.

Finley, L. M. (2004). The Hidden Victims of Tort Reform. *Emory Law Journal*, 53(3):1263–1314.

Gagliarducci, S., Nannicini, T., and Naticchioni, P. (2010). Moonlighting Politicians. *Journal of Public Economics*, 94(9–10):688–699.

Gehlbach, S., Sonin, K., and Zhuravskaya, E. (2010). Businessman Candidates. *American Journal of Political Science*, 54(3):718–736.

Gelman, A., Jakulin, A., Pittau, M. G., and Su, Y.-S. (2008). A Weakly Informative Default Prior Distribution for Logistic and Other Regression Models. *Annals of Applied Statistics*, 2(4):1360–1383.

Goldberg, J. C. and Zipursky, B. (2010). The Easy Case for Products Liability Law: A Response to Professors Polinsky and Shavell. *Harvard Law Review*, 123:1919–1948.

Graves, W. B. (1946). *American State Government*. Heath and Company, Boston, 3rd edition.

Green, J. J., Schmidhauser, J. R., Berg, L. L., and Brady, D. (1973). Lawyers in Congress: A New Look at Some Old Assumptions. *Western Political Quarterly*, 26(3):440–452.

Hadfield, G. K. (2000). The Price of Law: How the Market for Lawyers Distorts the Justice System. *Michigan Law Review*, 98(4):953–1006.

Hain, P. L. and Piereson, J. E. (1975). Lawyers and Politics Revisited: Structural Advantages of Lawyer-Politicians. *American Journal of Political Science*, 19(1):41–51.

Handberg, R. B. J. (1976). The 1974 Term of the United States Supreme Court. *Western Political Quarterly*, 29(2):298–312.

Hanmer, M. J. and Ozan Kalkan, K. (2013). Behind the Curve: Clarifying the Best Approach to Calculating Predicted Probabilities and Marginal Effects from Limited Dependent Variable Models. *American Journal of Political Science*, 57(1):263–277.

Hyneman, C. S. (1940). Who Makes Our Laws? *Political Science Quarterly*, 55(4):556–581.

Klick, J. and Sharkey, C. M. (2009). What Drives the Passage of Damage Caps? In *Empirical Studies of Judicial Systems Around the Globe*. Institutum Jurisprudentiae, Academia Sinica.

Lazer, D., Pentland, A., Adamic, L., Aral, S., Barabási, A.-L., Brewer, D., Christakis, N., Contractor, N., Fowler, J., Gutmann, M., Jebara, T., King, G., Macy, M., Roy, D., and Van Alstyne, M. (2009). Computational Social Science. *Science*, 323(5915):721–723.

Levitt, S. D. (1996). How Do Senators Vote? Disentangling the Role of Voter Preferences, Party Affiliation, and Senator Ideology. *American Economic Review*, 86(3):425–441.

List, J. A. and Sturm, D. M. (2006). How Elections Matter: Theory and Evidence from Environmental Policy. *Quarterly Journal of Economics*, 121(4):1249–1281.

Luce, R. (1924). *Legislative Assemblies: Their Framework, Make-Up, Character, Characteristics, Habits, and Manners*. Houghton Mifflin Company, Boston.

Matter, U. (2013). *pvsR: An R package to interact with the Project Vote Smart API for scientific research*. R package version 0.2.1 <http://CRAN.R-project.org/package=pvsR>.

Mattozzi, A. and Merlo, A. (2008). Political Careers or Career Politicians? *Journal of Public Economics*, 92(3–4):597–608.

Miceli, T. J. and Stone, M. P. (2013). The Determinants of State-Level Caps on Punitive Damages: Theory and Evidence. *Contemporary Economic Policy*, 31(1):110–125.

Miller, M. (1995). *The High Priests of American Politics: The Role of Lawyers in American Political Institutions*. University of Tennessee Press, Knoxville, TN.

Norris, P. and Lovenduski, J. (1995). *Political Recruitment: Gender, Race, and Class in the British Parliament*. Cambridge University Press, Cambridge, UK.

Osborne, M. J. and Slivinski, A. (1996). A Model of Political Competition with Citizen-Candidates. *Quarterly Journal of Economics*, 111(1):65–96.

Podmore, D. (1977). Lawyers and Politics. *British Journal of Law and Society*, 4(2):155–185.

Polinsky, M. and Shavell, S. (2010a). A Sceptical Attitude about Product Liability Is Justified. *Harvard Law Review*, 123:1949–1968.

Polinsky, M. and Shavell, S. (2010b). The Uneasy Case for Product Liability. *Harvard Law Review*, 123:1437–1492.

Project Vote Smart (2012). 2012 National Key Votes, <http://www.votesmart.org/bills> [last visited: 9/22/2014].

Rosenson, B. A. (2006). The Impact of Ethics Laws on Legislative Recruitment and the Occupational Composition of State Legislatures. *Political Research Quarterly*, 59(4):619–627.

Roth, A. and Roth, J. (1989). *Devil's Advocates: The Unnatural History of Lawyers*. Nolo Press, Berkeley, CA.

Rubin, P. H. (2005). Public Choice and Tort Reform. *Public Choice*, 124(1/2):223–236.

Rubin, P. H. and Bailey, M. J. (1994). The Role of Lawyers in Changing the Law. *Journal of Legal Studies*, 23(2):807–831.

Rubin, P. H. and Shepherd, J. M. (2008). The Demographics of Tort Reform. *Review of Law and Economics*, 4(2):591–620.

Schlesinger, J. A. (1957). Lawyers and American Politics: A Clarified View. *Midwest Journal of Political Science*, 1(1):26–39.

Shapiro, C. (1991). Symposium on the Economics of Liability. *Journal of Economic Perspectives*, 5(3):3–10.

Sharkey, C. M. (2005). Unintended Consequences of Medical Malpractice Damages Caps. *New York University Law Review*, 80(2):391–512.

Shepherd, J. M. (2008). Tort Reforms' Winners and Losers: The Competing Effects of Care and Activity Levels. *UCLA Law Review*, 55(4):914–919.

Sugarman, S. D. (2002). United States Tort Reform Wars. *University of New South Wales Law Journal*, 25(3):849–853.

Sugarman, S. D. (2006). Ideological Flip-Flop: American Liberals Are Now the Primary Supporters of Tort Law. In Tiberg, H. and Clarke, M., editors, *Essays on Tort, Insurance, Law and Society in Honour of Bill W. Dufwa*, pages 1105–1102. Jure Forlag AB, Stockholm.

Swers, M. (2001). Understanding the Policy Impact of Electing Women: Evidence from Research on Congress and State Legislatures. *PS: Political Science and Politics*, 34(2):217–220.

Towers Watson (2012). *U.S. Tort Costs Trends 2011 Update*. Towers Watson, New York, NY.

U.S. Council of Economic Advisers (2004). *Economic Report of the President*. U.S. Council of Economic Advisers, Washington, DC.

Warren, C. (1911). *A History of the American Bar*. Little, Brown and Co., Boston, MA.

Washington, E. L. (2008). Female Socialization: How Daughters Affect Their Legislator Fathers' Voting on Women's Issues. *American Economic Review*, 98(1):311–332.

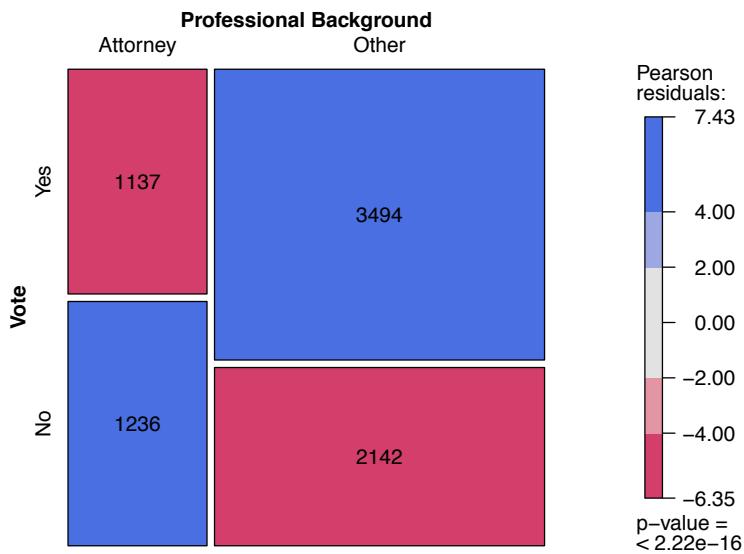
White, M. J. (1992). Legal Complexity and Lawyers' Benefit from Litigation. *International Review of Law and Economics*, 12(3):381–395.

Winkelmann, R. and Boes, S. (2006). *Analysis of Microdata*. Springer, Berlin.

Zywicki, T. J. (2000). Public Choice and Tort Reform. George Mason Law and Economics Research Paper 00-36, George Mason University School of Law.

Figures and tables

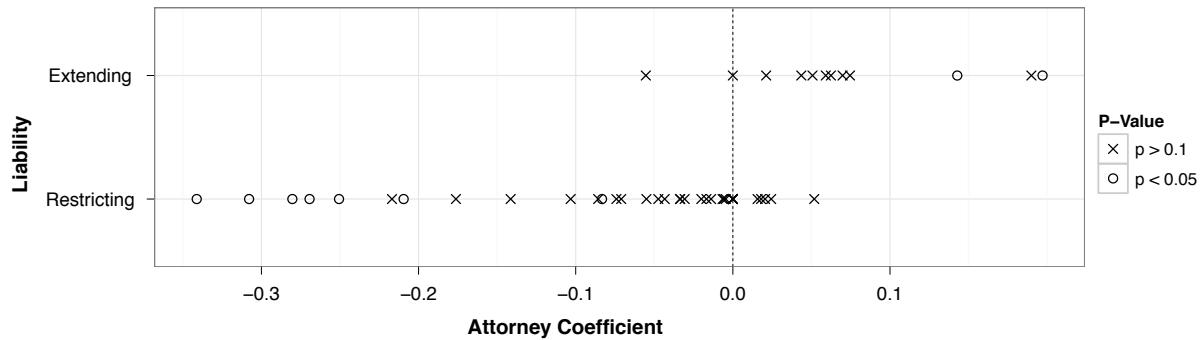
Figure 1: Mosaic plot of votes by professional background



Notes: Graphical display of the association between the professional background of a legislator and her or his voting behavior (based on a Pearson chi-squared test of independence, p-value reported in plot). The width of the cells represents the relative share of the professional background categories, while the height of the cells refers to the proportion of votes within each category. The shading of the cells refers to the sign and magnitude of the respective Pearson residuals. Additionally, the number of observations per cell is presented. The raw difference in the share of yes votes amounts to -14.08 percentage points ($= 47.91\% - 61.99\%$). Federal and state-level votes on restricting reforms are included.

Data source: Own compilation based on Project Vote Smart.

Figure 2: Distribution of marginal effects for the attorney variable in individual votes (state-level)



Notes: Coefficients of the attorney variable from individually estimated linear models for 12 votes extending tort law and 38 votes restricting it in US states. The shape of the dots indicates the statistical significance of the effects.

Data source: Own compilation based on Project Vote Smart.

Table 1: Summary statistics for the explanatory variables

<i>All observations (vote level)</i>						
Variable	Federal votes			State-level votes		
	N Obs. = 0	N Obs. = 1	Mean	N Obs. = 0	N Obs. = 1	Mean
Attorney	3350	1905	0.36	2982	613	0.17
Republican	2509	2746	0.52	1532	2063	0.57
Female	4591	664	0.13	2829	766	0.21
Higher education	584	4671	0.89	1041	2554	0.71
Law degree (not attorney, not bar member)	5133	122	0.02	3555	40	0.01
Bar associate (not attorney)	5146	109	0.02	3576	19	0.01
Age	-	-	54.06	-	-	-
DW-Nominate (1st dim.)	-	-	0.09	-	-	-

<i>Individual level observations</i>						
Variable	Federal votes			State-level votes		
	N Obs. = 0	N Obs. = 1	Mean	N Obs. = 0	N Obs. = 1	Mean
Attorney	2519	1413	0.36	1813	383	0.17
Republican	1905	2027	0.52	931	1265	0.58
Female	3415	517	0.13	1700	496	0.23
Higher education	433	3499	0.89	651	1545	0.7
Law degree (not attorney, not bar member)	3836	96	0.02	2167	29	0.01
Bar associate (not attorney)	3847	85	0.02	2182	14	0.01
Age	-	-	54.45	-	-	-
DW-Nominate (1st dim.)	-	-	0.08	-	-	-

Data sources: Own compilation based on Project Vote Smart and Voteview.com.

Table 2: Support of tort reforms. Raw differences in voting behavior by occupational background and party

	Federal votes		State votes	
	Democrat	Republican	Democrat	Republican
Lawyer-legislators	0.06	0.93	0.08	0.87
Others	0.12	0.98	0.11	0.96
Difference	-0.06	-0.05	-0.03	-0.09

Notes: Fractions of legislators voting in favor of restricting tort reforms by party and occupational background.

Data source: Own compilation based on Project Vote Smart.

Table 3: Voting behavior in federal tort reform votes (pooled data)

Dependent variable: Vote in support of reform=1				
Coefficients	(1)	(2)	(3)	(4)
Intercept	0.163 *** (3.057)	-1.926 *** (-3.346)	0.384 *** (5.953)	1.132 *** (19.743)
Attorney	-0.073 *** (-5.291)	-1.285 *** (-8.872)	-0.070 *** (-5.786)	-0.063 *** (-7.428)
Republican	0.846 *** (57.536)	6.415 *** (37.269)		
Female	-0.035 ** (-2.180)	-0.521 ** (-2.571)	-0.039 ** (-2.489)	-0.000 (-0.013)
Higher education	-0.007 (-0.364)	-0.169 (-0.819)	-0.011 (-0.597)	0.002 (0.159)
Age/10	-0.008 (-1.276)	-0.152 ** (-2.323)	0.000 (0.013)	-0.014 *** (-3.591)
Law degree (not attorney, not bar member)	-0.025 (-1.250)	-0.212 (-0.481)	-0.091 ** (-2.162)	0.038 * (1.650)
Bar associate (not attorney)	-0.055 (-0.790)	-1.098 *** (-2.586)	-0.020 (-0.549)	-0.135 *** (-4.687)
N	5255	5255	2509	2746
(McFadden) R-squared	0.772	0.729	0.206	0.079
Method	OLS	Logit	OLS	OLS
Sample	All	All	Democrats	Republicans

Notes: OLS specification with standard errors clustered at the individual level. T-values (OLS) or z-values (logit) are in parentheses. The logit models are estimated with the method suggested by Gelman et al. (2008) in order to avoid the separation problem that would occur with the default maximum likelihood estimator. Statistical significance: * $0.1 > p > 0.05$, ** $0.05 > p > 0.01$ and *** $p < 0.01$. All specifications include state fixed effects and bill fixed effects.

Data source: Own compilation based on Project Vote Smart.

Table 4: Voting behavior in state-level tort reform votes (pooled data)

<i>Dependent variable:</i> Vote in support of reform=1				
	Bills restricting tort law	Bills extending tort law		
Coefficients	(1)	(2)	(3)	(4)
Intercept	0.102 *** (6.663)	-2.805 *** (-7.749)	0.968 *** (11.126)	3.025 *** (5.764)
Attorney	-0.069 *** (-4.435)	-1.180 *** (-5.026)	0.079 ** (2.256)	1.099 *** (3.055)
Republican	0.837 *** (72.219)	6.575 *** (25.469)	-0.826 *** (-34.273)	-5.310 *** (-17.168)
Female	0.004 (0.306)	0.014 (0.067)	0.060 *** (3.041)	0.840 ** (2.547)
Higher education	0.012 (1.037)	0.263 (1.367)	-0.000 (-0.005)	0.039 (0.136)
Law degree (not attorney, not bar member)	-0.035 (-0.637)	-0.528 (-0.666)	0.049 (0.359)	0.453 (0.409)
Bar associate (not attorney)	-0.080 * (-1.851)	-1.017 (-0.843)	0.171 (0.945)	1.640 * (1.855)
N	2742	2742	853	853
(McFadden) R-squared	0.744	0.711	0.699	0.632
Method	OLS	Logit	OLS	Logit

Notes: OLS specification with standard errors clustered at the individual level. The logit models are estimated with the method suggested by Gelman et al. (2008). T-values (OLS) or z-values (logit) are in parentheses. Statistical significance: * $0.1 > p > 0.05$, ** $0.05 > p > 0.01$ and *** $p < 0.01$. All specifications include bill fixed effects. Information on the age of legislators is not available on the state level.

Data source: Own compilation based on Project Vote Smart.

Appendix

Analyzed votes

Table 5: Analyzed votes

State	Date	Bill Number	Title	Yes/No	Tort law	Liability
Nat	1995-05-10	HR 956	Product Liability bill	61/37	product liability	restricted
Nat	1995-10-19	HR 2425	Medicare Preservation Act of 1995	231/201	medical malpractice	restricted
Nat	1996-03-21	HR 956	Product Liability bill	59/40	product liability	restricted
Nat	1996-03-28	HR 3103	Health Insurance Portability bill	267/151	medical malpractice	restricted
Nat	1996-03-29	HR 956	Product Liability bill	259/158	product liability	restricted
Nat	1996-05-09	HR 956	Product Liability bill	258/163	product liability	restricted
Nat	1998-07-24	HR 4250	Patient Protection bill	216/210	medical malpractice	restricted
Nat	2000-02-16	HR 2366	Small Business Liability Reform bill	221/193	product liability	restricted
Nat	2001-08-02	H Amdt 303	Amendment to the Bipartisan Patient Protection Act	218/213	medical malpractice	restricted
Nat	2003-03-13	HR 5	Malpractice Liability bill	229/196	medical malpractice	restricted
Nat	2004-05-12	HR 4280	Medical Malpractice Liability Limitation Bill	229/197	medical malpractice	restricted
Nat	2004-09-14	HR 4571	Lawsuit Abuse Reduction Act of 2004	229/174	general	restricted
Nat	2005-07-28	HR 5	Malpractice Liability Reform Bill	230/194	medical malpractice	restricted
Nat	2009-11-07	H Amdt 510	Substitute Health Care and Insurance Law Amendments	176/258	medical malpractice	restricted
AZ	2007-01-29	SB 1032	Emergency Room Malpractice	16/12	medical malpractice	restricted
AZ	2007-05-10	SB 1032	Emergency Room Malpractice	26/29	medical malpractice	restricted
AZ	2011-04-06	HB 2191	Punitive Damage Awards	21/8	general	restricted
AZ	2011-04-11	HB 2191	Punitive Damage Awards	41/17	general	restricted
AZ	2012-02-28	SB 1336	Limiting Manufacturer Eligibility for Punitive Damages	19/11	product liability	restricted
AZ	2012-03-06	SB 1359	Prohibits Wrongful Birth Lawsuits	20/9	medical malpractice	restricted
CO	2008-03-03	SB 164	Increasing Caps on Medical Malpractice Lawsuits	18/16	medical malpractice	extended
FL	2006-03-16	HB 145	Joint and Several Liability Elimination	93/27	general	restricted
FL	2006-03-30	HB 145	Joint and Several Liability Elimination	27/13	general	restricted

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Table 5 – continued from previous page

State	Date	Bill Number	Title	Yes/No	Tort law	Liability
FL	2009-05-01	HB 903	Capping Attorney Fees in Workers' Compensation Lawsuits	22/16	worker compensation	restricted
FL	2012-03-02	HB 119	Amends Personal Injury Protection Insurance Requirements and Regulations	85/30	motor vehicle	restricted
IL	2007-04-27	HB 1798	Wrongful Death Damages	63/52	wrongful death general	extended
IL	2007-05-17	HB 1798	Wrongful Death Damages	31/23	wrongful death general	extended
KS	2007-03-15	HB 2530	Physician Liability Exemption	109/14	medical malpractice	restricted
KS	2013-02-28	SB 142	Prohibits Civil Action Lawsuits Concerning Abortion Consultation	34/5	medical malpractice	restricted
LA	2010-06-07	SB 731	Authorizing AG Contingency Fee Contracts.	21/16	general	extended
MI	2007-02-22	HB 4044	Repealing Drug Company Liability	70/39	product liability	extended
MI	2007-02-22	HB 4045	Reactive Drug Manufacturer Liability	60/49	product liability	extended
MI	2007-02-22	HB 4046	Pharmaceutical Company Liability	58/49	product liability	extended
MI	2009-03-26	HB 4317	Extending Pharmaceutical Manufacturer Liability	56/53	product liability	extended
MO	2012-02-08	SB 592	Establishes New Standards to Prove Workplace Discrimination	25/8	workplace discrimination	restricted
MO	2012-02-09	HB 1219	Workplace Discrimination Amendments	89/68	workplace discrimination	restricted
MO	2012-03-08	HB 1219	Workplace Discrimination Amendments	23/8	workplace discrimination	restricted
MO	2014-03-05	HB 1173	Establishes Causes of Action in Medical Malpractice Lawsuits	94/61	medical malpractice	restricted
MS	2013-02-14	SB 2795	Requires Physicians to Administer Abortion Prescriptions	39/12	medical malpractice	restricted
NC	2011-03-02	SB 33	Medical Malpractice Amendments	36/13	medical malpractice	restricted
NJ	2008-01-07	S 176	Expanding Damages for Wrongful Death	21/11	wrongful death general	extended
NJ	2008-01-07	S 176	Expanding Damages for Wrongful Death	41/32	wrongful death general	extended
NV	2009-04-20	AB 495	Removing Medical Malpractice Award Cap	26/15	medical malpractice	extended

Table 5 – continued from previous page

State	Date	Bill Number	Title	Yes/No	Tort law	Liability
OK	2006-03-15	HCS HB 3120	Tort Reform Bill	58/41	product liability	restricted
OK	2007-03-13	SB 507	Firearm Injury Liability and Tort Reform	42/5	product liability	restricted
OK	2007-04-17	SB 507	Comprehensive tort reform-Provide	57/39	product liability	restricted
OK	2007-04-19	SB 507	Comprehensive tort reform-Provide	25/23	product liability	restricted
OK	2009-02-18	HB 1602	Attorney Fee Limits	54/46	general	restricted
OK	2009-03-04	HB 1603	Tort Law Amendments	61/39	medical malpractice	restricted
OK	2009-04-22	HB 1602	Attorney Fee Limits	23/23	general	restricted
OK	2009-04-22	HB 1603	Tort Law Amendments	27/19	medical malpractice	restricted
OK	2011-02-23	SB 863	Compensation for Non-Economic Damages	29/18	general	restricted
PA	2011-04-11	HB 1	Comparative Negligence Provisions	112/88	general	restricted
PA	2011-06-21	SB 1131	Tort Amendments	32/18	general	restricted
PA	2011-06-27	SB 1131	Tort Amendments	116/83	general	restricted
TN	2006-05-17	SA 1505	Medical Malpractice Limits Amendment	13/16	medical malpractice	restricted
UT	2009-03-10	SB 79	Elevating Standard of Proof for Specific Medical Malpractice Lawsuits	53/18	medical malpractice	restricted
WI	2006-01-19	AB 766	Medical Malpractice Lawsuit Caps	63/36	medical malpractice	restricted
WI	2009-04-28	SB 20	Discriminatory Pay Compensation	18/15	workplace discrimination	extended
WI	2011-01-18	SB 1	Tort Law Amendments	19/14	general	restricted
WI	2011-01-20	SB 1	Tort Law Amendments	57/36	general	restricted
WI	2011-10-27	SB 12	Limits Attorney Fees in Consumer Cases	17/15	other	restricted
WI	2011-11-03	SB 202	Repeals Punitive Damages for Workplace Discrimination	17/16	workplace discrimination	restricted
WI	2012-02-21	SB 202	Repeals Punitive Damages for Workplace Discrimination	60/35	workplace discrimination	restricted

Notes: States are indicated with the official United States Postal Service abbreviation, whereas 'Nat' refers to votes at the federal level.

Data Source: Own compilation based on Project Vote Smart.