

Protect Maryland Businesses During Economic Recovery— Pass Senate Bill 210

Businesses of all types and sizes, educational institutions and nonprofit organizations are working hard to protect employees, customers, students, and everyday Marylanders from exposure to COVID-19 in an environment often filled with incomplete and inconsistent information.

The growing risk of opportunistic lawsuits against these organizations poses a significant barrier in our ability to reignite Maryland's economy.

As the private sector contributes to COVID-19 response, it faces liability challenges. As a result, businesses require protection from frivolous lawsuits so they can get Maryland back on the path to economic recovery. Without it, they face unfounded threats of legal action that could wind up costing thousands of dollars at a time when they need every financial resource available to keep their doors open and Marylanders employed.

In the absence of federal action, state governments must act to shield business owners from lawsuits unless plaintiffs can prove a business willfully failed to develop and implement a plan to reduce the risk of COVID-19.

Employers following proper government and health department guidance should not be sued out of business. Employers need assurance that when they do the right thing, and follow the advice of public health experts, they will not face more financial hardships from unwarranted lawsuits.

Relief should be temporary and targeted. Gross negligence and bad actors should be held accountable. As a group of organizations, we are simply asking for temporary 'safe harbor' protections. This is not blanket immunity.

As small business owners in Maryland continue the process of reopening, **it is imperative the legislature establishes protections from the threat of lawsuits that exploit the already damaging effects of COVID-19.**

The potential impact on small businesses is staggering.

- ▶ \$343 billion –U.S. tort system's commercial liability costs (2018)
- ▶ \$182 billion or 53% of total cost—burden placed on small businesses (2018)
- ▶ 39% of liability costs were borne by the smallest businesses—those with under \$1 million in annual revenue
- ▶ ↑14% increase in liability costs from 2016 to 2018

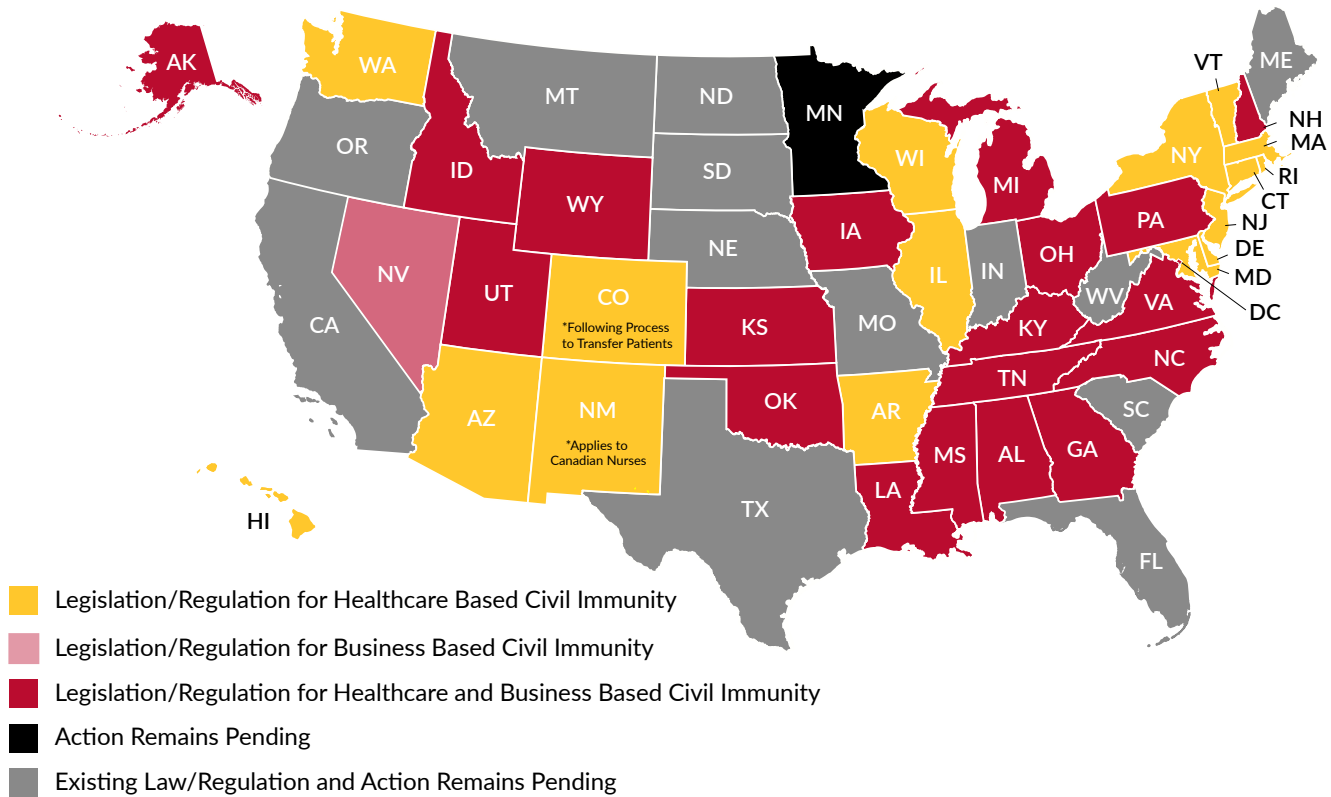
Source: U.S. Chamber Institute for Legal Reform, October 2020

As of December 11, 2020, 20 states and the District of Columbia have passed some type of COVID-19 liability protections from tort claims. (AK, GA, ID, IA, KS, KY, LA, MI, MS, NH, NV, NC, OH, OK, PA, SC, TN, UT, VA, WY). One state has enacted COVID liability protections for businesses through EO (Alabama). Minnesota currently has legislation pending for COVID liability protections for businesses and healthcare facilities. This means roughly half (22) of the states have acted or are planning to take action to grant liability protections to businesses from COVID related claims.

Nearly 70% of small business owners **are concerned about liability claims increasing as a result of the pandemic, with 38% of them identifying as very concerned.**

SOURCE: NFIB Research Center

State Lawsuit Abuse Protection



Support temporary protections for businesses, pass Senate Bill 210

SB 210 provides that businesses, educational institutions, and health care facilities that act in compliance with all federal, state and local statutes, rules, regulations, executive and agency orders related to COVID-19 shall be held immune from civil liability for a COVID-19 claim unless gross negligence or intentional wrongdoing can be proven.

If passed, the temporary protections would apply only to claims that arose between March 5, 2020 and 180 days after the expiration or rescission of the Governor’s Declaration of State of Emergency.