



To: The Honorable Gretchen Whitmer, Governor  
 The Honorable Mike Shirkey, Senate Majority Leader  
 The Honorable Lee Chatfield, Speaker of the House  
 Honorable Members of the State Senate  
 Honorable Members of the State House

From: ABC of MI, Auto Dealers of MI, Business Leaders for MI, Community Bankers Assoc., Detroit Regional Chamber, Grand Rapids Chamber, Health Care Assoc. of MI, Home Builders of MI, Insurance Alliance of MI, Lansing Chamber, Assoc. of State Universities, MI Bankers Assoc., MI Bankers Assoc., MI Chamber, MI Community College Assoc., MI Credit Union League, MI Elementary and Middle School Principals Assoc., MI Health & Hospital Assoc., MI Ind. Colleges and Universities, MI Manufacturers Assoc., MI Railroads Assoc., MI Realtors, MI Restaurant & Lodging Assoc., MI Retailers Assoc., Midland Business Alliance, MITA, NFIB, Northern MI Chamber Alliance, Saginaw County Chamber, SBAM, Telecommunications Assoc. of MI, Adrian Area Chamber, Bay Area Chamber, Birmingham Bloomfield Chamber, Cheboygan Chamber, Grand Blanc Chamber, Greenville Chamber, Hartland Chamber, Indian River Chamber, Lake Gogebic Chamber, Muskegon Lakeshore Chamber, Petoskey Chamber, Shiawassee Chamber, South Haven Chamber, Southern Wayne County Chamber, Sturgis Chamber, Greater Brighton Area Chamber, Three Rivers Area Chamber, Wyoming-Kentwood Chamber

Date: July 21, 2020

Re: Need for COVID-19 Employer Liability Reform

As we continue to carry on during this unprecedented time, government officials, employers, employees, and customers are all grappling with questions about how we can best balance safety with the need to continue to live and work.

As different organizations have been allowed to reopen and resume operations, the safety of their employees and customers has been a top concern. Following the precautions and safety measures set

forth by the Governor and other health organizations and agencies to help stop the spread of COVID-19 is critical for the health of every Michigan resident.

Our organizations support common sense legislation to assure that all employers in all sectors who take reasonable steps to follow public health guidelines, will be protected against needless lawsuits. The legislation we are seeking would be a win-win in that it will incentivize employers to protect and promote workplace and customer safety and protect organizations against the acute economic threat of COVID-19 related lawsuits.

We urge you to support common sense COVID-19 legal reform measures and begin moving it through the legislative process as soon as possible. An outline of the proposed legislation is below. If you have any questions or concerns, please feel free to contact any one of the organizations listed above.

- **Duty of Care for Premise Owners** – We support protecting businesses and other entities from claims alleging that they negligently exposed an individual to COVID-19. **The proposed legislation provides that a premise owner is subject to liability only if he or she intentionally or recklessly disregards a substantial risk that would increase the likelihood that an individual would be exposed to COVID-19, or intentionally exposes a person to the virus.** In other words, if a business knew, for example, that one of its employees had COVID-19 and permitted that person to continue to work, that business would be subject to liability. Likewise, if a business was aware that a customer or client who frequently visited was diagnosed with COVID-19 but took no action to clean and disinfect the business, it could face a lawsuit.
- **Safe Harbor for Following Public Health Guidance** - As businesses operate during the pandemic and reopen, they continue look for guidance on how to do the right thing by minimizing the risk of exposure to COVID-19 for their customers and employees. Governor Gretchen Whitmer has issued executive orders and guidance providing specific requirements for operating during the pandemic and reopening. **We support clarifying that a business should not be liable in a lawsuit alleging that the steps it took were insufficient to protect a person from exposure to COVID-19 when it followed public health guidance applicable to employers at that time.**
- **Actual Injuries** - Just as a person would not sue for contracting the flu at work or while visiting the supermarket, **we support legislation that distinguishes legitimate claims from no-injury lawsuits.** Just one of these “no injury” lawsuits in a fragile economy can be the death knell for an organization that is attempting to reopen.
- **Encouraging Production of Vital Products** – There was and continues to be a vital need for personal protective equipment (PPE), such as masks and respirators, ventilators and other medical equipment, and other products designed to guard against or treat COVID-19. Some manufacturers have quickly increased their production of critical products in response to the crisis, which could lead to compromised quality control. Others are making products they do not ordinarily produce to help, posing a risk of a flaw in the product’s design, instructions, or warnings. **The proposed legislation places a reasonable limit on the liability exposure of anyone who makes, sells, or donates certain needed products for use by government entities, health care providers, first responders, or essential businesses during the pandemic including PPE and cleaning supplies.** Any person involved in making these products would remain subject to liability if he or she knew of a defect in the product that was likely to cause the injury and nevertheless disregarded that knowledge when it made, sold, or donated the product.