



ACJRC

ALABAMA CIVIL JUSTICE REFORM COMMITTEE

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Talking Points - Safe Harbor for Business Act

In these times of uncertainty, the business and healthcare community is doing all it can to safely and responsibly reopen their doors; however, with the threat of lawsuits at the forefront of their minds, many business owners and healthcare providers are understandably anxious. Such anxiety could discourage employers from bringing employees back to work, which will only prolong the devastating impacts to communities across the state. During these unprecedented times, doctors, nurses and healthcare providers on the front lines should not be further burdened with liability concerns while rendering much needed medical care and businesses should be focused on restoring production and reviving jobs, without the threat of unwarranted liability exposure associated with COVID-19. The Safe Harbor for Business Act provides employers, businesses, and health care providers ("covered entities") with much needed protection against civil liability associated with the virus.

SB 330 - Safe Harbor for Business Act

- SB 330 provides civil immunity for covered entities operating in Alabama from certain claims and damages claimed by individuals who allege that they contracted or were exposed to COVID-19. Exceptions to this immunity exist if the covered entity acted with wanton, reckless, willful or intentional misconduct and such misconduct must be proven under a "clear and convincing" evidentiary standard. Cases that do not involve death or "serious physical injury" are limited to recovering actual out-of-pocket economic damages. Punitive damages cannot generally be recovered.

Why is this legislation needed?

- The reasonable measures provided in this legislation will protect healthcare providers on the front lines of the crisis, as well as businesses struggling to keep their doors open, from the risk and expense of lawsuits associated with COVID-19.
- Businesses in all industries and areas of the state are facing major financial damages from the sudden, all-consuming effect of Coronavirus which could take years to recover from. These businesses, especially those in the small business community, cannot afford to be exposed to additional financial injury incurred through costly lawsuits resulting from an unprecedented pandemic and circumstances outside of their control.

What type entities are covered under SB 330?

- Entities covered under this legislation include businesses, nonprofits, LLCs, health care providers, educational entities, churches, governmental entities, and cultural institutions operating in this state, as well as individuals associated with these entities.

Who is included as individuals associated with an entity and covered under this legislation?

- Any director, officer, trustee, manager, member, employee, or agent with respect to any act or omission performed while acting on behalf of the covered entity.

How can a business ensure it is covered under the civil immunity provisions in this legislation?

- The best way to avoid COVID-19 liability is for covered entities to operate in a manner that is reasonably consistent with applicable public health guidance in order to show that they are not acting recklessly. The legislation will assist businesses and healthcare providers because perfection in this time is impractical but using reasonable best efforts should shield covered entities from liability.
- That public health guidance includes, among other things, orders and other information issued by the Alabama Department of Public Health that is applicable to an entity.
- A covered entity will not receive immunity from civil liability provided through this legislation if the claimant proves by clear and convincing evidence that the entity caused the injury or damage through wanton, reckless, willful or intentional misconduct.

This bill is being supported by the leading business groups representing all aspects of business and industry in Alabama. The bill is not being opposed by the Alabama Association for Justice.

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Alabama Bankers Association

Alabama Farmers Federation

Alabama Forestry Association

Alabama Hospital Association

Alabama Manufactured Housing Association

Alabama Nursing Home Association

Alabama Poultry and Egg Association

Alabama Power Company

Alabama Retail Association

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Alabama Rural Electric Association

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