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States Enact Laws Limiting COVID-19 Liability

(Current as of October 27, 2020)

Lawmakers in Alabama, Arkansas, Iowa, Kansas, Louisiana, Michigan, Mississippi, North Carolina, Oklahoma, Utah and Wyoming have adopted laws that may limit civil liability for individuals, businesses and others from injury or death relating to COVID-19 exposure. While they vary in their details, these laws generally provide limited immunity from liability or damages relating to exposure to, or infection from, COVID-19 where a person or entity is acting in accordance with federal, state, or local guidance, and is not acting with gross negligence or willful or reckless misconduct. It is likely that other states will adopt similar laws in the future. Note that many of these laws expire after a certain period.

These laws may provide some protections to real estate appraisers if they unknowingly transmit the virus while performing field or other work, so long as the appraiser is following appropriate public health directives, orders, or other applicable guidance. In addition, some of these laws may provide some protections to appraisal companies who have visitors at a physical location if individuals contract the virus while on the premises of the business, or for employers in an employment context.

Lastly, the U.S. Congress currently is considering legislation to provide liability protections for businesses, employers and others, which, if adopted, would create an exclusive federal cause of action preempting all state laws that would otherwise apply.

Alabama ([Eighth Supplemental State of Emergency: Coronavirus \(COVID-19\)](#))

1. **Liability protections.** A business, health care provider, or other covered entity shall not be liable for the death or injury to persons or for damage to property in any way arising from any act or omission related to, or in connection with, COVID-19 transmission or a covered COVID-19 response activity, unless a claimant shows by clear and convincing evidence that the claimant's alleged death, injury, or damage was caused by the business, health care provider, or other covered entity's wanton, reckless, willful, or intentional misconduct.
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Arkansas ([Executive Order 20-33](#))

- (1) To protect businesses that open or remain open during the COVID-19 emergency, all persons in the State of Arkansas and the person's employees, agents, and officers shall be immune from civil liability for damages or injuries caused by or resulting from exposure of an individual to COVID-19 on the premises owned or operated by those persons or during any activity managed by those persons.
- (2) The immunity provided under this Executive Order does not apply to willful, reckless, or intentional misconduct resulting in injury or damages. It is presumed that a person and person's employees, agents, and officers are not committing willful, reckless, or intentional misconduct under this order if the person and the person's, agents, and officers are (a) substantially complying with health and safety directives or guidelines issued by the Governor or the Secretary of the Department of Health; or (b) acting in good faith while attempting to comply with health and safety directives or guidelines issued by the Governor or the Secretary of the Department of Health.

Iowa (SF 2338)

Sec. 7. NEW SECTION. 686D.5 Safe harbor for compliance with regulations, executive orders, or public health guidance.

A person in this state shall not be held liable for civil damages for any injuries sustained from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care was in substantial compliance or was consistent with any federal or state statute, regulation, order, or public health guidance related to COVID-19 that was applicable to the person or activity at issue at the time of the alleged exposure or potential exposure.

Kansas (HB 2016)

New Sec. 11. (a) Notwithstanding any other provision of law, a person, or an agent of such person, conducting business in this state shall be immune from liability in a civil action for a COVID-19 claim if such person was acting pursuant to and in substantial compliance with public health directives applicable to the activity giving rise to the cause of action when the cause of action accrued. (b) The provisions of this section shall expire on January 26, 2021.

Louisiana (HB 826)

§ 2800.25. Limitation of liability for COVID-19

A. No natural or juridical person, state or local government, or political subdivision thereof shall be liable for any civil damages for injury or death resulting from or related to actual or alleged exposure to COVID-19 in the course of or through the performance or provision of the person's, government's, or political subdivision's business operations unless the person, government, or political subdivision failed to substantially comply with the applicable COVID-19 procedures established by the federal, state, or local agency which governs the business operations and the injury or death was caused by the person's, government's, or political subdivision's gross negligence or wanton or reckless misconduct. If two or more sources of procedures are applicable to the business operations at the time of the actual or alleged exposure, the person, government, or political subdivision shall substantially comply with any one applicable set of procedures.

Michigan (HB 6030 and HB 6031)

HB 6030

Sec. 5. A person who acts in compliance with all federal, state, and local statutes, rules, regulations, executive orders, and agency orders related to COVID-19 that had not been denied legal effect at the time of the conduct or risk that allegedly caused harm is immune from liability for a COVID-19 claim. An isolated, de minimis deviation from strict compliance with such statutes, rules, regulations, executive

orders, and agency orders unrelated to the plaintiff's injuries does not deny a person the immunity provided in this section.

HB 6031

Sec. 85. (1) Notwithstanding any other provision of this act, an employer is not liable under this act for an employee's exposure to COVID-19 if the employer was operating in compliance with all federal, state, and local statutes, rules, and regulations, executive orders, and agency orders related to COVID-19 that had not been denied legal effect at the time of the exposure. An isolated, de minimis deviation from strict compliance with such statutes, rules, regulations, executive orders, and agency orders unrelated to the employee's exposure to COVID-19 does not deny an employer the immunity provided in this section.

Mississippi (SB 3049)

SECTION 3. (1) A person, or agent of that person, who attempts in good faith to follow applicable public health guidance shall be immune from suit for civil damages for any injuries or death resulting from or related to actual or alleged exposure or potential exposure to COVID-19 in the course of or through the performance or provision of its functions or services.

(2) A person, or agent of that person, shall be immune from suit for civil damages for injuries or death resulting from or related to actual or alleged exposure or potential exposure to COVID-19 in the course of or through the performance or provision of its functions or services in the time before applicable public health guidance was available.

(3) An owner, lessee, occupant or any other person in control of a premises, who attempts, in good faith, to follow applicable public health guidance and directly or indirectly invites or permits any person onto a premises shall be immune from suit for civil damages for any injuries or death resulting from or related to actual or alleged exposure or potential exposure to COVID-19.

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SECTION 6. (1) Notwithstanding any other provision of this act, the immunities provided in this act shall not apply where the plaintiff shows, by clear and convincing evidence, that a defendant, or any employee or agent thereof, acted with actual malice or willful, intentional misconduct.

(2) Nothing in this act:

- (a) Creates, recognizes or ratifies a claim or cause of action of any kind;
- (b) Eliminates a required element of any claim;
- (c) Affects workers' compensation law, including the exclusive application of such law; or
- (d) Amends, repeals, alters or affects any other immunity or limitation of liability.

SECTION 7. Except as otherwise provided in Section 11-46-11, a person must bring suit for any alleged injury arising from COVID-19 not later than two (2) years after the day the cause of action accrues.

SECTION 8. This act shall take effect and be in force from and after March 14, 2020, and expire one (1) year after the end of the COVID-19 state of emergency, except that any civil liability arising out of acts or omissions or related to an injury that occurred during the operation of this act shall be subject to its provisions in perpetuity. It is the intent of the Legislature that this act take effect retroactively

North Carolina (SB 704)

Article 48. "Limited Business Immunity."

"§ 66-460. Essential businesses; emergency response entities; liability limitation.

(a) Notwithstanding any other provision of law and subject to G.S. 66-461, the following entities shall have immunity from civil liability:

(1) An essential business that provides goods or services in this State with respect to claims from any customer or employee for any injuries or death alleged to have been caused as a result of the customer or employee contracting COVID-19 while doing business with or while employed by the essential business.

(2) An emergency response entity with respect to claims from any customer, user, or consumer for any injuries or death alleged to have been caused as a result of the COVID-19 pandemic or while doing business with the emergency response entity.

(b) The immunity from civil liability provided in this section shall not apply if the injuries or death were caused by an act or omission of the essential business or emergency response entity constituting gross negligence, reckless misconduct, or intentional infliction of harm. This section does not preclude an employee of an essential business or emergency response entity from seeking an appropriate remedy under Chapter 97 of the General Statutes for any injuries or death alleged to have been caused as a result of the employee contracting COVID-19 while employed by the essential business or emergency response entity.

"§ 66-461. Applicability.

This Article applies to acts or omissions occurring on or after the issuance of the COVID-19 essential business executive order and expires when the COVID-19 emergency declaration is rescinded or expires.

"§ 66-462. Definitions.

The following definitions apply in this Article:

(1) COVID-19. – The coronavirus disease 2019.

(2) COVID-19 emergency declaration. – Executive Order No. 116 issued March 10, 2020, by Governor Roy A. Cooper, including any amendments issued by executive order, subject to extensions under Chapter 166A of the General Statutes.

(3) COVID-19 essential business executive order. – Executive Order No. 121 issued March 27, 2020, by Governor Roy A. Cooper, including any amendments issued by executive order, subject to extensions under Chapter 166A of the General Statutes.

(4) Emergency response entity. – Businesses, not-for-profit organizations, educational institutions, and governmental entities that manufacture, produce, or distribute personal protective equipment, testing equipment, or ventilators, or process COVID-19 testing results.

(5) Essential business. – Businesses, not-for-profit organizations, educational institutions, and governmental entities identified in the COVID-19 essential business executive order. The term also applies to any business that the Department of Revenue determines is essential.

"§ 66-463. Severability.

This Article shall be liberally construed to effectuate the public purpose of ensuring that essential businesses can provide goods and services to the public during the COVID-19 pandemic. The provisions of this Article are severable. If any part of this Article is declared to be invalid by a court, the invalidity does not affect other parts of this Article that can be given effect without the invalid provision."

SECTION 4.14.(b) This section is effective when it becomes law and applies to claims filed on or after March 27, 2020.

Oklahoma (SB 1946)

B. A person or agent of the person who conducts business in this state shall not be liable in a civil action claiming an injury from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care of the person or agent was in compliance or consistent with federal or state regulations, a Presidential or Gubernatorial Executive Order, or guidance applicable at the time of the alleged exposure. If two or more sources of guidance are applicable to the conduct or risk at the time of the alleged exposure, the person or agent shall not be liable if the conduct is consistent with any applicable guidance. C. The provisions of this section shall apply to a civil action filed on or after the effective date of this act.

Utah (SB 3007)

(2) Subject to the other provisions of this section, a person is immune from civil liability for damages or an injury resulting from exposure of an individual to COVID-19 on the premises owned or operated by the person, or during an activity managed by the person. Immunity as described in this Subsection (2) does not apply to:

- (a) willful misconduct;
- (b) reckless infliction of harm; or

(c) intentional infliction of harm.

Wyoming (SF 1002)

35-4-114. Immunity from liability. (a) During a public health emergency as defined by W.S. 35-4-115(a)(i), any health care provider or other person, including a business entity, who in good faith follows the instructions of a state, city, town or county health officer in responding or who acts in good faith in responding to the public health emergency is immune from any liability arising from complying with those instructions or acting in good faith. This immunity shall apply to health care providers who are retired, who have an inactive license or who are licensed in another state without a valid Wyoming license and while performing as a volunteer during a declared public health emergency as defined by W.S. 35-4-115(a)(i). This immunity shall not apply to acts or omissions constituting gross negligence or willful or wanton misconduct.