

# Litigation Impacts that Ohio HB 606 Will Have on Helping Ohio Businesses Defend against COVID-Related Transmission

By Christopher W. Tackett

As detailed in a recent [Roetzel Public Law alert](#), the Ohio legislature passed House Bill 606 (“H.B. 606”) to grant civil immunity to Ohio businesses regarding civil lawsuits for “injury, death or loss” related to the “transmission or contraction: of COVID-19 transmission. Effective on December 16, 2020, H.B. 606 provides civil immunity relating to coronavirus transmissions from March 9, 2020 through September 30, 2021. Specifically, HB 606 grants broad, but not complete, civil immunity to Ohio businesses facing claims that they contributed to COVID-19 transmission through alleged acts of negligence. The caveat to HB 606 is that it will still allow plaintiffs’ lawsuits to go forward if they allege that an “intentional, willful, or reckless” action or inaction by the defendant business led to the COVID-19 transmission(s) on which the plaintiff bases its claim.

While the bill significantly limits legal exposure to Ohio businesses, we expect segments of the plaintiffs’ bar in Ohio to bring a volume of cases alleging that businesses have caused COVID-19 transmissions through allegedly intentional, willful or reckless conduct. Many plaintiffs may cherry-pick facts or take limited facts out of context to allege businesses lacked precautions to such a degree that it shows recklessness or intentionality sufficient to overcome H.B. 606’s grant of civil immunity. Unfortunately, this likely plaintiffs’-bar tactic will allow many claims to get past a motion to dismiss and disrupt the intent of H.B. 606.

Though we expect that cases alleging businesses were intentional or reckless regarding a COVID-19 transmission will be exposed when heard on the merits, this foreseeable tactic will allow countless plaintiffs to force Ohio businesses to incur needless litigation expenses. For those cases that get past a motion to dismiss but are exposed on the merits for completely lacking a basis to overcome H.B. 606’s grant of civil immunity, we would recommend pursuing punitive sanctions against plaintiffs bringing those allegations.

Finally, we would stress and remind Ohio businesses that H.B. 606 is not a cure-all. Thus, it is essential to make sure that your business has consulted with legal counsel and experts to put reasonable policies and procedures in place to limit the risks of COVID-19 exposure and spread at your business locations. Again, this is essential to combat COVID-19 and to combat the plaintiffs’ bar’s foreseeable tactic of claiming that an alleged deficiency in protocols shows recklessness or intentionality relating to a COVID-19 transmission.

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