

Civil Immunity for Schools, Businesses, and Healthcare Providers Related to Coronavirus

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Ohio House Bill 606 (“HB 606”) provides civil immunity to schools, businesses, and healthcare providers that unknowingly spread coronavirus. HB 606 specifies that the definition of person “includes a school, a for-profit or nonprofit entity, a governmental entity, a religious entity, or a state institution of higher education.” This legislation will protect schools, allowing them to reopen and let students back in. It will also protect healthcare providers and small businesses to enable Ohio’s economy to open back up and rebuild. HB 606 will provide immunity protection from its effective date through September 30, 2021.

This bill is meant to address the thousands of lawsuits being filed nationwide and the uncertainty this creates for Ohio businesses and schools. In this bill, lawmakers acknowledge that protocols and prevention methods related to COVID-19 have been ever-changing, that there is a responsibility on individuals entering public places to take steps to avoid exposure, and that Ohio businesses have not historically been required to keep the public safe from airborne viruses, bacteria, and germs.

HB 606 provides temporary civil immunity for health care providers, specifically those who provide health care services or emergency services during a declared disaster or emergency. The bill defines a long list of entities such as “behavioral health provider,” “dentist,” “health care professional,” “paramedic,” and “physician.” There is immunity from tort liability and professional discipline in response to disasters or emergencies; however, tort actions that constitute a reckless disregard of the consequences or intentional or willful or wanton misconduct are excluded from immunity. Also excluded from immunity are professional disciplinary actions that constitute gross negligence. Finally, health care providers are excluded from immunity if they act outside of their skills, education or training unless their actions are both in good faith and due to a lack of resources because of a disaster or emergency.

If injury or death is caused by “MERS-CoV,” “SARS-CoV,” or “SARS-CoV-2” or any mutation, uncodified law in this bill prevents bringing a civil action for injury, death, or loss caused by exposure to, transmission or contraction of coronaviruses or mutations. This immunity does NOT apply if caused by reckless conduct, or intentional misconduct, or willful or wanton misconduct. Generally, reckless conduct is defined as a person disregarding a substantial and unjustifiable risk, with heedless indifference to the consequences that such conduct may cause contraction of, exposure, or transmission.

HB 606 provides that if general immunity does not apply, no class action can be brought against any person alleging liability for damages for injury, death, or loss to person or property based on the specified cause of action.

The General Assembly stresses in this bill that executive branch orders and recommendations do not create new legal duties for purposes of tort liability. In Ohio, the General Assembly makes Ohio's laws and the executive branch does not have the authority to create new legal duties for businesses.

If you have any questions or concerns, please contact any of the listed Roetzel professionals.

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