

Ohio's New COVID Immunity Legislation

To bring some certainty to the Covid-19 related tort liability that Ohio business owners may face, on September 14, 2020 Governor DeWine signed Am. Sub. H. B. No. 606 (the "Bill") into law. The Bill, has made temporary changes granting qualified civil immunity to a wide array of businesses, including schools, for-profit and non-profit entities, religious entities, and governmental and state institutions of higher education, from injury, death or loss caused by exposure to, or the transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2 (the viruses that cause middle east respiratory syndrome, severe acute respiratory syndrome, and coronavirus disease 2019 respectively), or any mutation thereof (collectively, the "Viruses"), unless it is established that such exposure, transmission, or contraction was due to reckless conduct or intentional, willful, or wanton misconduct on the part of the party against whom the action is brought. Under the Bill, "Reckless conduct" means conduct by which, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk an exposure to, or a transmission or contraction of, any of the Viruses. In addition, should the above immunity not apply, the Bill goes on to prohibit class actions against any person alleging liability for damages for injury, death, or loss to person or property on a cause of action premised on the exposure to, or a transmission or contraction of, any of the Viruses.

The Bill further provides that Virus related orders and recommendations from the executive branch, from counties and local municipalities, from boards of health and other agencies, and from any federal government agency, do not create any new legal duties for purposes of tort liability and are presumed to be irrelevant to the issue of the existence of a duty or breach of a duty. Moreover, any such orders and recommendations are presumed to be inadmissible at trial to establish proof of a duty or breach of a duty in tort actions.

The Bill grants immunity during the time period from March 9, 2020, through September 30, 2021. There may be some question, however, over the actual effective date of the Bill in that, generally, a bill goes into effect 90 days following the date it is signed by the Governor. Nonetheless, this is an important piece of legislation and should bring some peace of mind to businesses navigating their way through the COVID-19 pandemic. If you have any questions regarding this legislation, please contact one of our attorneys.