

Georgia Enacts COVID-19 Legal Immunity for Healthcare Providers, Businesses

By Todd Van Dyke & Raymond Perez

August 10, 2020

Meet the Authors



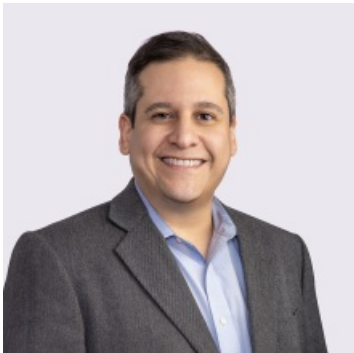
Todd Van Dyke

(He/Him)

Principal

(404) 586-1814

Todd.VanDyke@jacksonlewis.com



Raymond Perez

Of Counsel

404-586-1895

Raymond.Perez@jacksonlewis.com

Related Services

COVID-19

Disability, Leave and Health
Management

Healthcare

Workplace Safety and Health

Georgia Governor Brian Kemp has signed into law [Senate Bill 359](#), which, like legislation enacted by several other states, is designed to protect healthcare facilities, businesses, and other entities from civil liability related to the spread of COVID-19, except in limited situations that include where there is a showing of gross negligence or intentional misconduct.

Under the “Georgia COVID-19 Pandemic Business Safety Act,” healthcare facilities, healthcare providers, businesses, individuals, state government agencies, and other entities cannot be held liable for damages involving a COVID-19 liability claim, unless the claimant can show that the entity’s actions involved “gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm.”

A COVID-19 liability claim is broadly defined to cover the transmission, infection, exposure, or potential exposure to the virus at any healthcare facility or on the premises of any entity, including the acts or omissions by the healthcare provider in arranging for or providing medical care. The liability protections also extend to claims related to the manufacturing, labeling, donation, or distribution of personal protective equipment or sanitizer during a COVID-19 public health state of emergency.

The Act also creates a rebuttable presumption of assumption of risk by any claimant, except for gross negligence, willful and wanton misconduct, or reckless or intentional infliction of harm. The entity must have issued the claimant a receipt or proof of purchase for entry to the premises that includes the following statement (in at least 10-point Arial font):

Any person entering the premises waives all civil liability against this premises owner and operator for any injuries caused by the inherent risk associated with contracting COVID-19 at public gatherings, except for gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm, by the individual or entity of the premises.

Businesses also can create this rebuttable assumption of risk presumption by posting at the premises’ point of entry, a sign (with at least one-inch Arial font) containing the following statement:

Warning

Under Georgia law, there is no liability for an injury or death of an individual entering these premises if such injury or death results from the inherent risks of contracting COVID-19. You are assuming this risk by entering these premises.

The new law creates a rebuttable presumption of assumption of risk at healthcare facilities or on the premises of any healthcare provider that post similar warnings.

However, the presumptions and warning statement requirements are in addition to, and do not limit, the overall legal immunities created under the law.

Several other states (including Louisiana, North Carolina, Oklahoma, Utah, and Wyoming) have passed similar liability protection measures to address business concerns related to reopening during the COVID-19 pandemic.

The Act has a sunset provision and applies to any causes of actions accruing until July 14, 2021.

Reopening orders contain extensive requirements creating compliance issues that can vary significantly depending on the specific state or local jurisdiction. Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with [state-specific or multistate-compliant plans](#).

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.