



THE BUCKEYE INSTITUTE



Businesses and Workers Need Immunity from COVID-19 Related Lawsuits

Interested Party Testimony
Ohio Senate Judiciary Committee
House Bill 606

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As Submitted

Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Committee, thank you for the opportunity to submit written testimony regarding House Bill 606.

My name is Andrew Geisler and I am a legal fellow at **The Buckeye Institute**, an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states.

House Bill 606 ensures that Ohio businesses taking reasonable precautions against the spread of COVID-19 can begin to reopen without fearing virus-related lawsuits and liability. Our recent policy memo ***Policy Solutions for the Pandemic: Protecting Businesses and Workers from COVID-19 Related Lawsuits*** recommended that policymakers immunize businesses and front-line workers from tort liability as long as they take reasonable, anti-virus precautions. Lawsuits and the threat of lawsuits alleging virus exposure will further strain our dormant economy as it moves toward recovery. Many businesses may delay reopening or spend significant resources to take reasonable precautions only to be sued despite their best efforts. Ohio should keep that from happening by adopting a “safe harbor” rule that shields businesses and individuals adhering to recommended health and safety guidelines.

The Buckeye Institute applauds this Committee’s continued efforts on this important issue. In order to ensure that the legal safe harbor provides adequate protection, the Committee should examine a special tort rule that defines “reasonable conduct” in the COVID-19 context consistent with either the **state’s** or the **Centers for Disease Control and Prevention’s** guidelines for workplace safety. Businesses operating within the prescribed guidelines should be presumed to have taken reasonable precautions as they reopen and may therefore avoid tort liability and expensive litigation defense.

We also recommend that the Committee reject any presumption that workers contracted COVID-19 in the course of their employment for the purposes of workers’ compensation claims. This pandemic does not require Ohio to make such a significant change to the workers’ compensation system, and such a presumption would undermine the effect of the legislation by creating a loophole that opens the door to further litigation.

Finally, given this issue’s importance for businesses looking to safely reopen and stay open, The Buckeye Institute urges both chambers to resolve the differences between Senate Bill 308 and House Bill 606 as soon as possible. Waiting several more months to reconcile the bills will keep Ohio businesses in a state of uncertainty as they try to reopen and recover.

To reopen Ohio safely requires prudent liability shields to help restore a more normal life and awaken the slumbering economy. As Governor DeWine has **said**, “We can stay safe, we can protect each other, we can protect our most vulnerable and at the same time move our businesses back, get people back to work.” To do that, Ohio should provide businesses and individuals clear safety guidelines that give them the confidence to reenter the marketplace without fearing virus-related lawsuits.

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Founded in 1989, The Buckeye Institute is an independent research and educational institution – a think tank – whose mission is to advance free-market public policy in the states.

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