

Call to Action

Tell Your Lawmakers to Protect Businesses from Frivolous Lawsuits

The COVID-19 pandemic has caused thousands of infections and has cost hundreds of thousands of jobs in Wisconsin. While other members of the business community band together to help restart our economy and support those in need, Wisconsin trial lawyers are looking to profit off of others' tragedy.

Trial lawyers are already spending significant amounts on advertising to recruit COVID-19 plaintiffs to sue Wisconsin businesses. If the Wisconsin Legislature does not act to protect businesses from frivolous lawsuits, trial lawyers will prey upon the businesses – many already financially stretched to the brink – filing potentially bankruptcy-causing litigation. You can help support Wisconsin businesses by contacting your legislators and telling them to protect businesses from frivolous lawsuits.

Form Email

Subject: Please Protect Businesses from Frivolous COVID-19 Lawsuits

Body:

As the scope and duration of the COVID-19 pandemic continues to expand, trial lawyers are already looking to profit from others' tragedy. Wisconsin employers and job creators need broader protections against trial lawyers who are sizing up grocery stores, manufacturers, hotels, restaurants, and any other business that holds themselves open to the public as potential "deep pocketed" defendants.

The Legislature should pass reasonable protections from liability for those employers who reopen to serve the public to meet payroll while taking commonsense measures to protect their employees, customers, and clients during these irregular times.

These measures include:

- **Premises Liability Safe Harbor:** The legislature should create protections for all property owners/occupants who are good actors against frivolous lawsuits alleging a plaintiff was infected with COVID-19 at a specific premises. It is not business community specific and would protect homeowners, government entities - including schools and universities - and any other premises including outdoor events and festivals. The safe harbor should not protect bad actors. An entity should lose the liability exemption if they knowingly violated a public health order or spread COVID-19 by acting in a reckless, wanton, or intentional manner.
- **Limitation on Recovery from No-Injury Lawsuits:** The legislature should create two limitations on the ability of plaintiffs to recover damages from alleged exposure to COVID-19. First, plaintiffs cannot recover if they have not been diagnosed as having COVID-19. Second, even if a plaintiff was diagnosed they cannot recover damages if they were asymptomatic or had mild symptoms. These protections would protect all Wisconsinites, not just the business community.

These protections should not protect bad actors. The limitation should not apply to cases where another's act or omission that caused the exposure involved reckless, wanton, or intentional misconduct.

- **Employee Testing:** The legislature should protect employers who require a prospective or current employee to submit to a test for COVID-19 from legal liability. Further, employers should be allowed to refuse to hire a prospective employee who tests positive for COVID-19 or refuses to submit a test. Finally, employers should be allowed to require an employee to take leave until they submit to a COVID-19 test, show the negative results of a test, or until they no longer test positive for COVID-19.
- **Expanded Manufacturers, Distributors, and Sellers Protections:** Expand the relevant provision from Act 185 to protect those businesses that sell PPE at a profit. Allowing businesses to make a profit - and thereby keep their employees paid and boost their local economies - does not negate the fact these businesses stepped up during a pandemic and continue to help keep their communities safe by making PPE.

These liability provisions should be enacted to protect the engines of our economy from crippling - and possibly bankruptcy causing - litigation from trial attorneys. Trial attorneys are already targeting public facing businesses. They are already running television ads soliciting individuals who have been infected with COVID-19 and arguing that, because of the shelter-in-place orders around the nation, the only places to be infected are those businesses that remain open.

The legislature can and should act quickly to protect businesses and individuals from overzealous trial attorneys looking to sow division and profit off of those that step up and keep our economy running during a global pandemic.