

HOUSE BILL 826

BY REP. THOMAS PRESSLY (R-SHREVEPORT)

House Bill 826 (Act 336) by Representative Thomas Pressly provides protection to individuals, businesses and government entities who have stepped up to help keep Louisiana safe and healthy during the COVID-19 pandemic. It also helps protect businesses who substantially comply with federal, state and local guidance as they seek to re-hire workers, re-open their doors and begin growing again.

LABI identified this issue as one of the most important, if not the most important issue facing businesses, both large and small. Businesses cannot make definitive plans for re-opening and growing without some certainty that they will not be subject to frivolous lawsuits from opportunistic trial lawyers.

HB 826 provides limited civil liability protection to individuals and businesses for two main categories of claims – claims related to alleged exposure to COVID-19 and claims related to personal protective equipment (PPE). The bill does not grant complete immunity to any person or business. Businesses who act with gross negligence or reckless misconduct, or with any intent to cause harm should and will still be held accountable.

EXPOSURE RELATED CLAIMS

- HB 826 provides individuals, businesses and governmental entities with limited liability protection from claims based on actual or alleged exposure to COVID-19 as long as the person or business substantially complied with official COVID-19 guidance and did not act with gross negligence, or wanton or reckless misconduct. This is an area where trial lawyers are expected to be particularly aggressive, especially since it is extremely difficult to determine exactly when or how an individual may have contracted COVID-19.
- HB 826 specifically provides liability protection for exposure related claims to individuals and entities who plan, host or promote events, including trade shows, conventions and corporate meetings, as long as the individuals or entities do not act with gross negligence or willful or wanton misconduct.
- HB 826 prevents employees who contract COVID-19 from filing both a workers' comp claim against the employer and a separate tort claim, unless there was intentional bad act by the employer.



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PPE RELATED CLAIMS

- HB 826 provides limited liability protection to individuals and businesses that design, manufacture, label, or distribute PPE in response to the COVID-19 pandemic, unless the damage or injury was caused by gross negligence or willful or wanton misconduct
- During the COVID-19 public health emergency, HB 826 provides limited civil liability protection to individuals and businesses who use, employ, dispense, or administer PPE from any claims related to the PPE, as long as the business substantially complied with applicable guidance from at least one governmental entity and as long as the business did not act with gross negligence or wanton or reckless misconduct. This liability protection is particularly important in light of recent state and local mask ordinances.

Each provision of HB 826 applies retroactively to claims arising on or after Governor Edwards' initial emergency order on March 11, 2020. This ensures that any frivolous claims brought before the Legislature had an opportunity to act will still be subject to the liability protections included in the bill.