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Governor Kemp Signs Georgia COVID-19 Pandemic Business Safety Act

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Gov. Brian Kemp signed the **Georgia COVID-19 Pandemic Business Safety Act** on August 5, 2020, limiting Georgia businesses' liability for certain claims related to COVID-19. However, the act requires Georgia businesses to take specific steps to gain the protections offered by this act.

Georgia's COVID-19 Pandemic Business Safety Act

As we previously **reported**, Georgia's law provides that

“No healthcare facility, healthcare provider, entity, or individual, shall be held liable for damages in an action involving a COVID-19 liability claim against such healthcare facility, healthcare provider, entity, or individual, unless the claimant proves that the actions of the healthcare facility, healthcare provider, entity, or individual, showed: gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm.”

An entity includes, among others, corporations, companies, and religious and educational organizations.

Further, the law provides a rebuttable presumption of assumption of risk by the claimant if certain measures are implemented by the entity or individual, which means that a claimant would need to overcome this presumption to assert one of the specified types of COVID-19 claims. However, like similar statutes passed in other states such as **North Carolina**, this rebuttable presumption does not apply to claims of gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm. Further, the act only applies to causes of action that accrue before July 14, 2021, and presumably does not modify or supersede the application of Georgia's workers' compensation laws or, as applicable, other employment laws. As we have reported **before**, although workers' compensation laws vary by state, generally it will be difficult to prove compensability in Georgia because the occupational disease statute excludes diseases to which the general public is exposed. Employers with questions regarding workers' compensation claims or other employment laws, should seek guidance from their workers' compensation counsel.



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The types of COVID-19 liability claims that are covered by the act include

1. Transmission, infection, exposure, or potential exposure of COVID-19 to a claimant at any healthcare facility or on the premises of any entity, individual, or healthcare provider, resulting in injury to or death of a claimant;
2. Transmission, infection, exposure, or potential exposure of COVID-19 to a claimant caused by actions of any healthcare provider or individual resulting in injury to or death of a claimant;
3. Acts or omissions by a healthcare facility or healthcare provider in arranging for or providing healthcare services or medical care to the claimant resulting in injury or death of the claimant for COVID-19 or where the response to COVID-19 reasonably interfered with the arranging for or the providing of healthcare services or medical care at issue to the claimant; or
4. Manufacturing, labeling, donating, or distributing personal protective equipment or sanitizer where certain criteria are met.

What steps should Georgia employers take now?

To gain the protections of this act, individuals and entities must post a sign at a point of entry in “at least one-inch Arial font placed apart from any other text,” which contains the following disclaimer:

“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 rebuttable presumption is also available to health care facilities or health care providers as long as they take the same steps to warn individuals entering the premises.

Additionally, businesses that issue any receipt or proof of purchase (including an electronic or paper ticket or wristband for entry or attendance) must include the following warning in at least ten-point Arial font placed apart from any other text:

“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.”

In addition to immediately implementing these notice procedures, Georgia employers should continue to follow Gov. Kemp’s executive orders and monitor the guidance provided by agencies such as the Centers for Disease Control and the Occupational Safety and Health Administration.

For more information about this act or other COVID-19 developments, please contact the Constangy attorney of your choice.

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