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Georgia legislature passes “COVID-19 Pandemic Business Safety Act”

By Graham Newsome
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During the final moments of the 2020 legislative session, the Georgia General Assembly approved the Georgia COVID-19 Pandemic Business Safety Act. The bill, primarily written by Sen. Chuck Hufstetler (R-Rome), would protect businesses against liability for certain claims relating to COVID-19. The Georgia Senate passed the bill along party lines with a vote of 34-16, and the House passed the bill 104-56. Gov. Brian Kemp (R) is expected to sign.

The bill would provide protection for “healthcare facilit[ies]” and “any entity” or “individual” who face liability as a result of the “[t]ransmission, infection, exposure, or potential exposure of COVID-19 to a claimant.” Under the legislation,

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.

The pending law also provides a rebuttable presumption of assumption of the risk by the claimant when the individual or entity provides a

receipt or proof of purchase for entry . . . in at least ten-point Arial font . . . stating the following: “Any person entering the premises waives all civil liability against the 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.”

The rebuttable presumption is also available if the individual or entity has posted the following disclaimer in a sign at a point of entry in at least one-inch Arial font:

“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 provided for health care facilities or health care providers as long as they take the same steps to warn individuals entering the premises.

The legislation would add Chapter 16 to Title 51 of the Official Code of Georgia Annotated and be codified at O.C.G.A. § 51-16-1 et seq. As already noted, Gov. Kemp is expected to sign the legislation into law. Moreover, if he does not veto the bill within 40 days after the end of the legislative session, which ended on June 26, the bill will become law on August 7. The law applies only to actions that accrue before July 14, 2021.

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