



ATTORNEYS AT LAW

## **FLORIDA PASSES BILL TO GRANT COVID-19 LIABILITY PROTECTIONS TO EMPLOYERS**

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On March 29, 2021, Florida passed a bill (SB72) providing liability protections to various businesses with regard to COVID-19 exposure claims, joining a list of growing states, including, Michigan, Georgia, and Ohio, to pass some form of liability protection for businesses.

With specific regard to the Florida bill, in order for a plaintiff to bring a claim against a business for a COVID-19 related claim for damages, injury, or death, the bill creates a heightened pleading standard in that at the time of filing the complaint the plaintiff must also submit an affidavit from an actively licensed physician in Florida, attesting that, with a reasonable degree of medical certainty, the plaintiff's claim for damages, injury or death occurred as a result of a business's acts or omissions.

In addition to determining whether the plaintiff complied with the foregoing, the court must also make an initial finding as to whether the business "made a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance at the time the cause of action accrued." Notably, not all issued standards or guidance must be complied with, so long as a good faith effort was made to substantially comply with one set of standards or guidance which were authoritative or controlling at the time the cause of action arose. If the court finds the business made the foregoing good faith effort, the business is immune from liability.

Further, the burden falls squarely on the plaintiff to show the business did not make a good faith effort to comply with the applicable standards or guidance. If a plaintiff can show this, the plaintiff's claim still may be subject to dismissal. Specifically, if the court finds the business was not at least grossly negligent by clear and convincing evidence (an extremely high standard), the business will not be liable for the claim.

Finally, a complainant must bring the complaint within one (1) year of the time that the cause of action accrued, or if the cause of action accrued prior to the passage of the bill, then within one (1) year of passage.



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