



Fact Sheet Series for the 133rd General Assembly

House Bill 606

Grant Immunity to Essential Workers who Transmit COVID-19

Primary Sponsor: Representative Diane Grendell, Co-Sponsor: Representative William Seitz

These Bills Would:

- Provide immunity to persons who provide services for essential businesses and operations from liability in civil litigation for injury, death, or loss to person or property caused by the transmission of COVID-19.
- Limit exceptions to cases where the defendant:
 - Acted “manifestly outside the person’s scope of responsibilities”; or
 - Acted in a “wanton or reckless manner, or with malicious purpose.”
 - “Wanton or Reckless Manner” is a legal term of art, most often explained in reference to a defendant who was “conscious that [their] conduct [would] in all probability result in injury.” 26 Ohio St. 2d 94, 363 N.E. 2d 420 (1971). This is a higher standard than negligence.

Why This Bill is Consequential:

- This legislation creates broad immunity for employers, employees, and contractors across industries.
- Low-wage workers, already less likely to receive paid leave or health insurance, are a significant portion of “Essential Business and Operations” workforces.¹ If passed, this bill would reduce incentive for essential businesses to improve safety and illness-related accommodations to their employees, putting both their workers and customers at increased risk.
- People of color are more likely to maintain positions that require potentially hazardous contact with members of the public, without access to PPE.² If passed, this bill will thus increase harm to communities of color, who already suffer greater impacts from COVID-19 in tandem with the overall impact of systemic racism.³

¹ Martha Ross and Nicole Bateman, *COVID-19 Puts America’s low-wage workforce in an even worse position*, The Brookings Institute (March 19, 2020), <https://www.brookings.edu/blog/the-avenue/2020/03/19/covid-19-puts-americas-low-wage-workforce-in-an-even-worse-position/>.

² Catherine Powell, *The Color of COVID: The racial justice paradox of our new stay-at-home economy*, CNN, (April 18, 2020), <https://www.cnn.com/2020/04/10/opinions/covid-19-people-of-color-labor-market-disparities-powell/index.html>.

³ See, e.g., Bureau of Labor Statistics, *The Employment Situation – April 2020*, U.S. Department of Labor (May 8, 2020), <https://www.bls.gov/news.release/pdf/empsit.pdf> (reporting that Black and Latinx workers reported the highest rates of unemployment for April 2020); Elise Gould and Heidi Shierholz, *Not everybody can work from home - Black and Hispanic workers are much less likely to be able to telework*, Economic Policy Institute (March 19, 2020), <https://www.epi.org/blog/black-and-hispanic-workers-are-much-less-likely-to-be-able-to-work-from-home/> (reporting that where 37% of white workers can telework, only 19.7% of Black workers and 16.2% of Latinx workers have access to the same privilege).

What Constitutes Essential Business or Operation?

House Bill 606 incorporates the definition used in Director's Stay at Home Order (Order 3.22.20201)

- Order 3.22.20201 specifies the following as Essential Businesses & Operations. This list is expansive – each category includes lengthy inclusions and descriptions. For specific definitions within each category, please consult Order 3.22.20201 directly. You can access that document [here](#).
 - Healthcare and Public Health Operations
 - Human Services Operations
 - Essential Government Functions
 - Essential Infrastructure
 - Operations listed by the U.S. Department of Homeland Security Cybersecurity & Infrastructure Security Agency in the *Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response*
 - Stores that Sell Groceries & Medicine
 - Food, Beverage, & Licensed Marijuana Production & Agriculture
 - Charitable & Social Services Organizations
 - Religious Entities
 - Media
 - First Amendment Protected Speech
 - Gas Stations & Businesses Needed for Transportation
 - Transportation
 - Financial & Insurance Institutions
 - Hardware & Supply Stores
 - Critical Trades (Plumbers, Exterminators, Electricians, Cleaning & Janitorial Staff, and Others)
 - Supplies to Work from Home
 - Supplies for Essential Businesses & Operations
 - Professional Services (Accounting, Legal Representation, Real Estate, Insurance, and Others)
 - Home-Based Care Services
 - Hotels & Motels
 - Restaurants for Consumption Off-Premises
 - Funeral Services
 - Critical Labor Union Functions
 - Manufacture, Distribution, and Supply Chain for Critical Products & Industries
 - Residential Facilities & Shelters
 - Laundry Services
 - Education Institutions
 - Mail, Post, Shipping, Logistics, Delivery, and Pick-Up Services