



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

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To: Wisconsin Legislature

From: R.J. Pirlot, Executive Director
Paige Scobee, Lobbyist

Date: April 23, 2020

Re: Additional COVID-19 liability protection measures are needed.

Thank you for including protections for health care providers and their employees in Wisconsin Act 185. We are grateful for those workers who are putting their personal health at risk as they work to treat patients and fight to control and treat the coronavirus. Also, thank you for taking a first step in protecting manufacturers, distributors, and sellers of medical supplies and equipment needed to help fight the COVID-19 public health crisis.

As we plan for the needed steps to restart Wisconsin's economy, it is vitally important that we have appropriate liability protections for our employers and their workers from the very real threat of frivolous lawsuits related to COVID-19. A wave of COVID-19 related lawsuits will seriously undermine efforts to restart and rebuild the state's economy.

On behalf of the members of the Wisconsin Civil Justice Council, we respectfully request you enact the following liability protections measures.

Enact civil liability protections for employers keeping their workers and workplaces safe and prohibit “no injury” suits.

Enact liability protections, including an exception to the Wisconsin Fair Employment Act for measures to mitigate the COVID-19 outbreak, to allow businesses to screen employees and visitors (e.g., by taking a temperature scan) for signs of illness prior to entering a business or employer facility. Provide liability protections for employers who require employees to engage in proper hygiene procedures. Further, prohibit “no injury” suits by plaintiffs who were asymptomatic or suffered only minor symptoms. Such measures will help ensure Wisconsin business owners and their employees are comfortable reopening and restarting their workplaces.

Enact civil liability protections for persons rendering aid.

Create a civil liability exemption for any person providing aid or support to assist those suffering from the communicable disease or engaged in efforts to combat the spread of the communicable disease identified in an emergency public health order.

This will help ensure those rendering aid do not have their humanitarian efforts come back to haunt them.

Expand civil liability protections for manufacturers, distributors and sellers of medical supplies and equipment.

As noted, Act 185 contains a good first step at enacting such protections, but they fall short of what is needed because they are limited to businesses which sell the products at cost. This provides no protection for those businesses who are already manufacturing such equipment as part of their regular business model. Furthermore, this language would provide no financial incentive for manufacturers to repurpose their facilities to make medical equipment.

Please feel free to contact R.J. Pirlot if you have any questions at pirlot@hamilton-consulting.com or 608-445-4410 or Paige Scobee at scobee@hamilton-consulting.com or 612-232-2089. On behalf of the broad swath of the business represented by the Wisconsin Civil Justice Council, we stand ready to work with you.