



# COVID-19 Liability Relief for Georgia Healthcare Providers and Businesses

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On June 26, 2020, the Georgia Legislature passed Senate Bill 359—the “Georgia COVID-19 Pandemic Business Safety Act” (hereinafter the “Act”). The immunities in the Act will become effective once signed by Governor Brian Kemp. If Kemp fails to sign the Act, it will become effective on August 7, 2020.

## Coverage

The Act insulates businesses and other entities from COVID-19 liability claims. A COVID-19 liability claim is broadly defined to include causes of actions for “transmission, infection, exposure or potential exposure” to the virus, as well as “acts or omissions by a healthcare facility or healthcare provider” where the response to COVID-19 reasonably interfered with the provision of healthcare services and results in injury or death. The Act specifically defines a covered entity to include healthcare facilities and healthcare providers, but it is not limited to healthcare companies. Associations, companies, corporations, governmental entities, religious or educational organizations, and volunteer organizations, among others also qualify for protection. In fact, individuals are also extended protections under the Act.

## Scope of Immunity

The Act protects these covered entities and individuals from liability for injury or death related to COVID-19. The protection, though, is not unconditional. If a claimant can show that the covered entity acted with “gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm,” immunity is lost. Similarly, the Act does not appear to affect employees’ right to bring workers’ compensation claims or file complaints with OSHA regarding potential workplace safety concerns.

The Act creates a rebuttable presumption that claimants—as well as the claimants’ survivors or their estates—assumed the risk of the damages or injuries suffered when a covered entity or individual provides specific warnings. The warnings may be issued on “any receipt or proof of purchase for entry,” in at least 10-pt Arial font, or “at a point of entry” in at least one-inch Arial font. In both instances, the warnings must be verbatim for the text codified at §51-16-3(a)(1), §51-16-3(a)(2), and/or §51-16-4(a).

## Limitations

While the Act is broad in scope, there are noticeable limitations and exceptions. Without legislative renewal, the Act is only applicable to claims “accruing until July 14, 2021.” Likewise, the Act does not interfere with or supersede compliance with any requirements or provisions on a person or business in the state’s criminal code, health regulations, worker’ compensation program, emergency management statutes, or executive orders in force during the public health emergency.

The legal landscape is rapidly evolving in light of the ongoing coronavirus pandemic. This Act provides necessary protections to Georgia’s businesses and healthcare facilities; however, the practical application of the Act will largely be affected by existing jurisprudence and Georgia’s judiciary.

Parker Hudson looks forward to advising you on the best methods to minimize your liability as your business continues to respond and adapt to the challenges of COVID-19.

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