

insights

TYPES NOT MAPPED YET May 17, 2021 | TTR not mapped yet | Chuck M. Poplstein

Missouri legislature passes new protections for businesses from COVID-19 suits

While somewhat late to the starting gate, Missouri has now joined a score of other states in adopting a law designed to provide liability protections for employers, product manufacturers, and health care providers from personal injury lawsuits associated with contracting, or the fear of contracting, COVID-19. This law, [SB 51](#), takes effect August 28, 2021, if signed by the Governor.

Highlights are:

- The bill creates a new statutory cause of action for COVID-19 personal injury suits that preempts other statutory and common law causes of action which could be used to assert a claim for liability (such as negligence, intentional torts, etc.).
- Employers and other businesses are not liable for personal injury suits unless they engaged in conduct constituting **recklessness** (a voluntary conscious act or omission in reckless disregard of the consequences or a legal duty) or **willful misconduct** (an act or omission taken intentionally to achieve a wrongful purpose; or in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit).
- The person suing for damages must prove by clear and convincing evidence that the employer's act or omission actually caused the person to be exposed to COVID-19 and that actual exposure caused the person to suffer a personal injury.
- The bill creates a rebuttable presumption that persons entering the employer's premises assume the risk of COVID-19 exposure if the employer posts a statutory notice at the entrance to the facility.
- The measure limits punitive damages to 9-times compensatory damages.
- The bill does not impact liability for workers compensation benefits or preclude claims relating to discrimination or employer-employee relations. There are additional exceptions to the statute.
- Religious organizations (including any religious organization exempt under 501(c) of the Internal Revenue Code) are not subject to liability unless they engaged in intentional conduct.

Similar protections, outside the scope of this article, are accorded to health care providers and producers of certain types of products used to deal with the COVID-19 emergency.

[Chuck Poplstein](#) is the co-chair of Thompson Coburn's Human Resource practice and draws on his 35-plus years of experience to help clients solve personnel problems, conduct investigations, manage exposure to liability, effectively defend their interests in litigation, and receive an early and realistic assessment of their risk.

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