

**SUBSTITUTE FOR
HOUSE BILL NO. 6030**

A bill to provide minimum requirements for claims alleging exposure to COVID-19; establishing liability standards for claims alleging exposure to COVID-19; precluding liability if conduct complies with regulations, orders, or public health guidance; and limiting liability with respect to certain products made, sold, or donated in response to COVID-19.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "COVID-19 response and reopening liability assurance act".

3 Sec. 2. As used in this act:

4 (a) "Conduct intended to reduce transmission of COVID-19"
5 means health screening, testing, contact tracing, and other actions
6 intended to reduce transmission of COVID-19 in a workplace or on



1 other premises.

2 (b) "COVID-19" means the novel coronavirus identified as SARS-
3 CoV-2 or a virus mutating from SARS-CoV-2, the disease caused by
4 the novel coronavirus SARS-CoV-2, and conditions associated with
5 the disease.

6 (c) "COVID-19 claim" means a claim or cause of action for
7 damages, losses, indemnification, contribution, or other relief
8 arising out of, based on, or in any way related to exposure or
9 potential exposure to COVID-19, or a person's actions intended to
10 maintain workplace safety. COVID-19 claim also includes, but is not
11 limited to, a claim made by or on behalf of an individual who has
12 been exposed or potentially exposed to COVID-19, or any
13 representative, spouse, parent, child, member of the same
14 household, or other relative of the individual, for injury,
15 including mental or emotional injury, death, or loss to person,
16 risk of disease or other injury, costs of medical monitoring or
17 surveillance, or other losses allegedly caused by the individual's
18 exposure or potential exposure to COVID-19.

19 (d) "COVID-19 emergency" means a state of emergency or
20 disaster declared under a statute of this state on March 10, 2020,
21 or under any subsequent orders or amendments to those orders.

22 (e) "Disinfecting or cleaning supplies" includes, but is not
23 limited to, hand sanitizers manufactured in a manner consistent
24 with United States Food and Drug Administration industry guidance,
25 disinfectants, sprays, and wipes, if the supplies meet any
26 applicable United States Environmental Protection Agency criteria
27 for use against COVID-19.

28 (f) "First responder" means a firefighter, law enforcement
29 officer, member of a rescue squad or ambulance crew, or public



1 safety officer as those terms are defined in section 2 of the
2 public safety officers benefit act, 2004 PA 46, MCL 28.632, and any
3 other person authorized to provide emergency services during the
4 COVID-19 emergency.

5 (g) "Health professional" means an individual licensed,
6 registered, certified, or otherwise authorized to engage in a
7 health profession under article 15 of the public health code, 1978
8 PA 368, MCL 333.16101 to 333.18838, whether paid or unpaid,
9 including individuals engaged in telemedicine or telehealth, any
10 other individual authorized to provide health care during the
11 COVID-19 emergency, and the employer or agent of a health
12 professional who provides or arranges health care.

13 (h) "Minimum medical condition" means any of the following:

14 (i) A positive diagnosis of COVID-19, or symptoms consistent
15 with COVID-19, that required inpatient hospitalization of at least
16 24 hours.

17 (ii) A medical illness or physical injury or condition caused
18 by COVID-19 that results in the inability to engage in an
19 individual's usual and customary daily activities for at least 14
20 days, which does not include any period that the individual is in
21 quarantine to slow the spread of COVID-19.

22 (iii) Death attributed to COVID-19.

23 (i) "Nonprofit charitable organization" means an organization
24 granted tax exempt status by the Internal Revenue Service, if no
25 part of the organization's net earnings inure to the benefit of a
26 private shareholder or individual.

27 (j) "Person" means an individual, partnership, corporation,
28 association, governmental entity, or other legal entity, including,
29 but not limited to, a school, a college or university, an



1 institution of higher education, and a nonprofit charitable
2 organization. Person includes an employee, agent, or independent
3 contractor of the person, regardless of whether the individual is
4 paid or an unpaid volunteer.

5 (k) "Personal protective equipment" means coveralls, face
6 shields, gloves, gowns, masks, respirators, or other equipment used
7 to protect an individual from infection or illness or the spread of
8 infection or illness.

9 (l) "Premises" means any real property and any appurtenant
10 building or structure, or a vehicle, that serves a commercial,
11 residential, charitable, cultural, educational, governmental,
12 health care, religious, or other purpose.

13 (m) "Product liability claim" means an action based on a legal
14 or equitable theory of liability brought for the death of an
15 individual or for injury to an individual or damage to property
16 caused by or resulting from the production of a product.

17 (n) "Public health guidance" means written guidance related to
18 COVID-19 issued by the Centers for Disease Control and Prevention
19 or the Occupational Safety and Health Administration of the United
20 States Department of Labor, or by the Michigan occupational safety
21 and health administration, the department of health and human
22 services, the department of licensing and regulatory affairs, or
23 another agency of this state.

24 (o) "Qualified product" means personal protective equipment
25 used to protect the wearer from COVID-19 or the spread of COVID-19;
26 medical devices, equipment, and supplies used to treat COVID-19 or
27 prevent the spread of COVID-19; medications used to treat COVID-19
28 including medications prescribed or dispensed for off-label use to
29 attempt to combat COVID-19; tests to diagnose or determine immunity



1 to COVID-19; disinfecting or cleaning supplies; and components of
2 qualified products.

3 Sec. 3. (1) A person shall not bring or maintain a civil
4 action alleging a COVID-19 claim unless the claim alleges harm
5 related to a minimum medical condition.

6 (2) This section does not apply if the conduct that is the
7 subject of the COVID-19 claim was a deliberate act intended to
8 cause harm.

9 Sec. 4. A person is not liable for a COVID-19 claim that
10 arises from exposure of an individual to COVID-19 on premises
11 owned, leased, managed, or operated by a person, or during an
12 activity managed by a person, unless it is shown that the injuries
13 were caused by a reckless disregard of a substantial and
14 unnecessary risk that an individual would be exposed to COVID-19,
15 or the person engaged in a deliberate act intended to cause harm.

16 Sec. 5. A person that operates in compliance with federal or
17 state statutes or regulations, executive orders, state agency
18 orders, and public health guidance applicable at the time to the
19 conduct or risk that allegedly caused harm is not liable for a
20 COVID-19 claim or a claim related to conduct intended to reduce
21 transmission of COVID-19.

22 Sec. 6. (1) Except as provided by subsection (3), a person
23 that designs, manufactures, labels, sells, distributes, provides
24 insurance coverage for, or donates a qualified product in response
25 to COVID-19 is not liable in a civil action that alleges a product
26 liability claim related to the qualified product.

27 (2) Except as provided by subsection (3), a person that
28 selects or dispenses a qualified product in response to the COVID-
29 19 pandemic is not liable in a civil action for injuries or damages



1 claimed to have arisen from the selection, dispensation, or use of
2 the qualified product.

3 (3) The limitations on liability provided in this section do
4 not apply if a person had actual knowledge that the product was
5 defective and that there was a substantial likelihood that the
6 defect would cause the injury that is the basis of the action, and
7 the person willfully disregarded that knowledge in the manufacture,
8 distribution, sale, or donation of the product.

9 Sec. 7. (1) A person that owns or controls premises that,
10 voluntarily or at the request or order of this state or a political
11 subdivision of this state, designates and uses the whole or any
12 part of the premises to provide health care services, to provide
13 shelter to patients, first responders, or health professionals, or
14 for quarantine purposes in response to the COVID-19 emergency is
15 not civilly liable for negligence causing the death of or injury to
16 an individual on or about the premises or for loss of or damage to
17 the property.

18 (2) This section does not affect any obligation of a person
19 that owns or controls premises to disclose hidden dangers or safety
20 hazards that are known to the owner or occupant of the premises
21 that might possibly result in the death or injury or loss of or
22 damage to the property.

23 Sec. 8. This act does not do any of the following:

24 (a) Create, recognize, or ratify a claim or cause of action of
25 any kind.

26 (b) Eliminate a required element of any claim, including, but
27 not limited to, causation and proximate cause elements.

28 (c) Affect rights, remedies, or protections under the worker's
29 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to



1 418.941, including the exclusive application of that act.

2 (d) Amend, repeal, alter, or affect any other immunity or
3 limitation of liability.

4 Sec. 9. As provided by section 5 of 1846 RS 1, MCL 8.5, the
5 provisions of this act are severable. If any portion of this act or
6 the application of this act to any person or circumstances is found
7 to be invalid by a court, the invalidity will not affect, impair,
8 or invalidate the other portions or applications of this act that
9 can be given effect without the invalid portion or application.

10 Sec. 10. This act applies retroactively to any claim or cause
11 of action that accrues after January 1, 2020.

12 Enacting section 1. This act does not take effect unless all
13 of the following bills of the 100th Legislature are enacted into
14 law:

15 (a) House Bill No. 6031.

16 (b) House Bill No. 6032.

17 (c) House Bill No. 6101.

