



POSITION STATEMENT ON LIMITED BUSINESS LIABILITY PROTECTION

BACKGROUND

The Lancaster Chamber represents nearly 1,500 member companies and organizations and their valued employees. During COVID-19, companies across our community have been doing their best to serve their customers and minimize harm to all during uncertain times. Many essential businesses have remained operational during this time of remarkable legal uncertainty.

With that in mind, many risk becoming the targets of coronavirus-related lawsuits. Federal and state rules on how to operate during this crisis are continually evolving and, at times, creating confusion on tasks from how to screen to how to clean. As more businesses are authorized to reopen, many more will soon face these questions, as well. Despite that, businesses are continually striving to do the right thing – implementing new safety protocols to reduce the risk of transmission among employees and the public by following CDC and OSHA guidance.

As they do their best to control the spread of the disease with limited guidance available they deserve legal protection. Congress and the PA Legislature should not allow those acting in good faith to be held liable for events beyond their control that will create an environment where misguided litigation could derail our recovery.

By providing limited and rational safe harbors for good actors, our legislators can help ensure that critical needs are met during this time of crisis and enable the continued operation of critical infrastructure. Basic “Good Samaritan” provisions under the federal PREP Act, designed to address product and volunteer liability issues, have already enabled companies that may not normally produce protective equipment to do so to serve front line health care workers. Pennsylvania’s existing “Good Samaritan” laws that apply to medical professionals and citizens in medical good faith assistance situations as well as the Environmental Good Samaritan Act that allows for businesses to conduct or attempt environmental remediation without incurring excess liability are examples of where the state legislature identified the importance and the need to protect these altruistic activities.

POSITION

Recently, Governor Wolf extended liability protection to health care professionals engaged in treating COVID-19 patients, but it does not go far enough. Both legislative bodies (Congress and the PA Assembly) need to go further by expanding the scope of these provisions to protect businesses acting in legitimate good faith during these challenging times.

Liability protections and workplace provisions should be targeted, timely and temporary and not protect against gross negligence or intentional misconduct. We are not seeking to protect bad actors that operate in reckless or intentional disregard of available guidance on reducing the transmission of COVID-19.

We are all facing an unprecedented crisis in an uncertain and a constantly shifting environment. Providing businesses with targeted and limited safe harbors during these difficult times is a step that will give businesses clearer expectations on how to manage a safe workplace while not further exacerbating the crisis.

We are focused on working together with businesses as they reopen, committed to the health and safety protocols necessary in this crisis. The Lancaster Chamber is committed to keeping our local business community informed and to partnering with our state and federal elected officials to put in place fair, sensible protections for businesses and provide the best path to recovery.