



May 7, 2020

Dear Governor Lee and Members of the Tennessee General Assembly:

On behalf of a broad coalition of business and industry trade associations, higher education, the insurance industry, and members of the healthcare sector, we thank you for your ongoing work to manage our state during this unprecedented pandemic. The associations and organizations included in this letter represent businesses that collectively employ approximately two million Tennesseans.

We are writing to alert you to an important matter that employers, employees and consumers are challenged with in this unusual operating environment. You likely have seen news reports in recent weeks of the growing number of COVID-19 related lawsuits and efforts in other states to establish parameters for providing legal safety to employers. Just last week, these filings increased by 150%, to nearly 400 nationwide and we see no indication of this trend slowing. Tennessee employers are expressing deep concern and growing alarm that they will be subject to frivolous litigation, despite taking profoundly cautious and thoughtful steps to keep employees and customers safe. Most have implemented best practices from the "Tennessee Pledge" and/or are following U.S. Center for Disease Control (CDC) guidelines. Clearly, some aspects of personal behavior by some Tennesseans are beyond their control and despite their very best stewardship efforts, businesses are still unable to find refuge from claims that will close business' doors for good.

Members of our coalition are not seeking blanket protections from pandemic-related lawsuits, which would be harmful to plaintiffs with strong cases and the judicial system as a whole. Rather, we ask you to act promptly to preserve both justice and economic recovery in Tennessee by enacting reasonable safeguards against frivolous COVID-19-related claims. We believe providing clear standards for employers to meet CDC and other compliance guidelines should be a priority for our leaders and with those guidelines, some level of certainty to open up its business. We ask you to act to protect Tennesseans against claims which do not allege willful, reckless or intentional misconduct. It is good public policy to give our courts clear direction and to distinguish valid claims from meritless lawsuits in this unprecedented time. Tennessee's employers, many of whom are concerned they may not survive the pandemic, are dealing with a crisis through no fault of their own. They are doing everything possible to remain open to serve their customers and to keep their workers on the payroll; soaring legal defense costs from frivolous lawsuits will only make it more difficult to stay afloat and keep prices practicable for Tennessean consumers.

Some may believe liability protection already exists; our view is that the legal territory we are operating within is uncharted and is creating an uncertain business environment. We believe some attorneys will use the current pandemic to establish unfavorable precedents, as we are seeing in some states. Therefore, we need your help to adopt reasonable parameters for businesses that follow current CDC guidelines and state plans to protect its employees which will provide clarity for all concerned when the legislative session reconvenes.

Our groups are in the process of working together to construct a proposal for consideration and will be following up in the coming weeks. We look forward to the conversations ahead and thank you, as always for your service and leadership.

With gratitude,

Tennessee Chamber of Commerce & Industry
NFIB
Tennessee Hospital Association
American Council of Engineering Companies of Tennessee
American Property Causality Insurance Association
Associated Builders and Contractors of Greater Tennessee

Associated Builders and Contractors of West Tennessee
Greater Memphis Chamber
Home Builders Association of Tennessee
Hospitality TN
Insurors of Tennessee
LeadingAge Tennessee
Nashville Area Chamber of Commerce
National Association of Mutual Insurance Companies
Tennessee Association of Broadcasters
Tennessee Association of Home Care
Tennessee Association of Nurse Anesthetists
Tennessee Bankers Association
Tennessee Business Roundtable
Tennessee Center for Assisted Living
Tennessee Fuel & Convenience Store Association
Tennessee Funeral Directors Association
Tennessee Grocers & Convenience Store Association
Tennessee Independent Colleges and Universities Association
Tennessee Medical Association
Tennessee Pharmacists Association
Tennessee Railroad Association
Tennessee Roadbuilders Association
Tennessee Retail Association
U.S. Chamber Institute of Legal Reform