

Employment & Labor Client Alert



Oklahoma Governor Stitt Signs Bill to Protect Businesses from COVID-19-Related Lawsuits

By Stephanie Duran & Ellen Adams
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On May 21, 2020, Governor Stitt signed Senate Bill 1946 into law, which provides civil liability immunity for businesses that are reopening and complying with government issued guidance. The bill is effective immediately.

Originally presented by Senate President Pro Tempore Greg Treat, R-Oklahoma City, and House Speaker Charles McCall, R-Atoka, the bill ensures that businesses will have immunity from employee lawsuits that allege injuries from exposure or potential exposure to COVID-19. To avail themselves of this protection, businesses must have acted in compliance with written “federal or state regulations, a presidential or gubernatorial executive order, or guidance applicable at the time of the alleged exposure” related to COVID-19.

Acceptable guidance includes written guidance issued by the following agencies:

- [The U.S. Centers for Disease Control and Prevention \(CDC\)](#) (the CDC issued a [flowchart](#) that assists employers in deciding whether to reopen);
- [Occupational Safety and Health Administration \(OSHA\)](#);
- [The United States Department of Labor](#);
- [Oklahoma Department of Commerce](#);
- [Oklahoma Department of Health](#);
- And any other state agency board or commission; and
- A presidential or gubernatorial executive order.

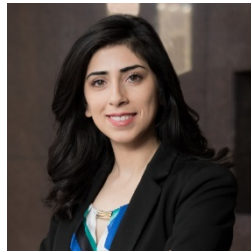
An additional resource includes FEMA’s [starter kit](#) that business leaders should also consult before returning to full operations.

The bill clarifies that if two or more sources of guidance are applicable to the alleged conduct, there will be no liability if the conduct is consistent with any applicable guidance. Notably, the immunity from liability is only applicable to businesses that follow the guidelines. Employers should optimize their chances to defend claims by:

- Investing in or revising existing policies to address critical workplace safety and logistical issues as they prepare to open their business;
- Conducting training for managers and employees on workplace safety and procedures; and
- Documenting steps taken to comply with the referenced guidance.

Though this will help businesses avoid civil liability, employers should take additional steps to mitigate against the risk of claims arising from COVID-19 related complaints. To aid employers in taking a comprehensive approach, the GableGotwals employment group has developed a [comprehensive COVID-19 re-opening kit](#) that provides employers with customizable policy templates that cover all the topics recommended by the Opening Up American Again guidelines, the OURS Plan, and OSHA’s “Steps Every Employer Should Take.” Included in the kit is a template for an arbitration agreement with an enforceable class action waiver for existing and prospective employees.

Our [Employment & Labor team](#) is committed to helping employers navigate the changing legal landscape related to COVID-19 and the workplace. Please contact any member of the team for further assistance.



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