

BURR ALERT

Georgia Legislature Passes COVID-19 Liability Shield in Big Win for Georgia Businesses

By Erich Durlacher and Nina Maja Bergmar

August 2020

UPDATE: Governor Kemp signed S.B. 359 into law on August 5, 2020. The new shield law will apply to all claims accruing on or before July 14, 2021.

Key Takeaway: Georgia Businesses Should Post the Statutory Notice at Points of Entry or on any Receipt or Proof of Purchase

On Friday, June 26, the Georgia legislature approved a bill to shield Georgia businesses from COVID-19 lawsuits brought by customers, members of the public, or employees except in the most egregious cases. Governor Kemp signed the bill into law on August 5, 2020. The law will apply to all claims accruing on or before July 14, 2021.

Under the law, businesses are immune from liability for damages in COVID-19 liability actions unless the claimant can prove gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm.

The bill further creates a rebuttable presumption of “assumption of the risk” by a claimant when entering a business’s premises if the business in question complies with certain statutory notice requirements. Generally, a business must provide express notice of Georgia’s liability shield law and that a person entering the premises assumes the risk for any injury or death resulting from COVID-19 exposure or potential exposure. Alternatively, businesses that charge admission for entry to the premises may include an express waiver of liability on any receipt or proof of purchase (such as an electronic or paper ticket or wrist band). The required notice must either be posted at a business’s point of entry or included on any receipt or proof of purchase (as applicable). Healthcare facilities and healthcare providers are limited to posting the notice at the point of entry.

For businesses that provide notice at the point of entry, the notice must state in at least one-inch Arial font placed apart from any other text the following:

Warning

Under Georgia law, there is no liability for an injury or death of an individual entering these premises if such injury or death results from the inherent risks of contracting COVID-19. You are assuming this risk by entering these premises.

For businesses that provide the required notice on a receipt or proof of purchase, the notice must state in at least ten-point Arial font placed apart from any other text the following:

“Any person entering the premises waives all civil liability against this premises owner and operator for any injuries caused by the inherent risk associated with contracting COVID-19 at public gatherings, except for gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm, by the individual or entity of the premises.”

The new law is expected to bring significant relief to the Georgia business community, which continues to face unprecedented challenges in the wake of the coronavirus pandemic.

Stay up to date by monitoring the latest COVID-19 resources on our [CORONAVIRUS RESOURCE CENTER](#).

To discuss this further, please contact:

[Erich Durlacher](#) at (404) 685-4313 or edurlacher@burr.com

[Nina Maja Bergmar](#) at (404) 685-4251 or nbergmar@burr.com

Burr & Forman publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information purposes only and may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at our discretion. The mailing of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship. The views set forth herein are the personal views of the authors and do not necessarily reflect those of the Firm. If legal advice is sought, no representation is made about the quality of the legal services to be performed or the expertise of the lawyers performing such service.