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Indiana General Assembly Passes COVID-19 Immunity Protections

Providing protections to businesses against COVID-19 lawsuits was a top priority for the Indiana General Assembly heading into the 2021 Legislative Session. Lawmakers were quick to deliver on that promise by passing [Senate Enrolled Act \(SEA\) 1](#) before the end of the first half of the session. The measure, which was effective upon passage, was signed into law by Governor Eric Holcomb on February 18, 2021. Importantly, it is retroactively effective going back to March 1, 2020.

The legislation provides immunity to persons for civil tort liability for damages arising from COVID-19 on the premises owned by the person, on any premises on which the person or an employee or agent of the person provided property or services to another person, or during an activity managed, organized, or sponsored by the person.

Importantly, the terms for who is a person and what arising from COVID-19 means are broad. A person includes individuals, businesses, non-profits, trusts, governmental entities, associations, institutions, partnerships, and any other organization or entity.

Arising from COVID-19 means:

- Any injury or harm caused by or resulting from the actual alleged or possible exposure to or contraction of COVID-19.
- Services, treatment, or other actions performed for COVID-19.

Manufacturers who responded to COVID-19 by shifting business operations to make items needed to fight the pandemic are also being provided additional protections. A manufacturer or supplier is immune from civil tort liability for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product.

A COVID-19 protective product includes some of the following:

- Personal protective equipment.

- Medical devices, equipment, and supplies used to treat COVID-19, including devices modified for an unapproved use.
- Medical devices, equipment, and supplies used outside their normal use.
- A product designed to clean or disinfect to prevent the spread of COVID-19.

It is important to note that the immunity provided under the new law does not apply if the person was grossly negligent or acted with willful or wonton misconduct. However, both standards must be proved by clear and convincing evidence, which is a higher standard than typically required.

For more information concerning Indiana's COVID-19 immunity protections, please feel free to reach out to [Jon M. Zarich](#), [Amy S. Wilson](#) or any member of the Indianapolis office of Frost Brown Todd.

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