

SENATE BILL NO. 1023

July 23, 2020, Introduced by Senators HORN, THEIS, MACGREGOR and SCHMIDT and referred to the Committee on Economic and Small Business Development.

A bill to amend 1974 PA 154, entitled
"Michigan occupational safety and health act,"
(MCL 408.1001 to 408.1094) by adding section 85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 85. (1) Notwithstanding any other provision of this act,**
2 **and except as otherwise provided in subsection (2), an employer is**
3 **not liable for damages that result from the exposure of an employee**
4 **to COVID-19 if all of the following conditions are met:**

1 (a) The employee was exposed to COVID-19 during the COVID-19
2 emergency.

3 (b) The employer was operating in substantial compliance or
4 reasonably consistent with a federal or state statute or
5 regulation, executive order, or public health guidance that was
6 relevant to, and applicable at the time of, the exposure. If more
7 than 1 public health guidance applied to the employer at the time
8 of the exposure, the requirements of this subdivision are satisfied
9 if the employer was operating in substantial compliance or
10 reasonably consistent with any applicable public health guidance.

11 (2) Subsection (1) does not apply if the employer wilfully
12 exposed the employee to COVID-19.

13 (3) This section does not do any of the following:

14 (a) Create, recognize, or ratify a claim or cause of action of
15 any kind.

16 (b) Eliminate a required element of a claim of any kind
17 including, but not limited to, a causation or proximate cause
18 element.

19 (c) Amend, repeal, alter, or affect any other immunity or
20 limitation of liability.

21 (4) This section applies retroactively to an exposure to
22 COVID-19 that occurs after January 1, 2020.

23 (5) As used in this section:

24 (a) "COVID-19" means the novel coronavirus identified as SARS-
25 CoV-2 or a virus mutating from SARS-CoV-2, the disease caused by
26 the novel coronavirus SARS-CoV-2, and conditions associated with
27 the disease.

28 (b) "COVID-19 emergency" means the state of emergency declared
29 under 1945 PA 302, MCL 10.31 to 10.33, or the emergency management

1 act, 1976 PA 390, MCL 30.401 to 30.421, on March 10, 2020, and any
2 subsequent orders or amendments to those orders.

3 (c) "Public health guidance" means written guidance related to
4 COVID-19 issued by the Centers for Disease Control and Prevention
5 or the federal Occupational Safety and Health Administration, or by
6 the department of health and human services or another agency of
7 this state.

8 (d) "Wilful" means that term as defined in section 6.

9 Enacting section 1. This amendatory act does not take effect
10 unless all of the following bills of the 100th Legislature are
11 enacted into law:

12 (a) Senate Bill No. 1024.

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14 (b) Senate Bill No. 1022.

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