



*BEFORE THE HOUSE CIVIL JUSTICE COMMITTEE  
PROPONENT TESTIMONY ON HOUSE BILL 606*

Chairman Hambley, Vice Chair Patton, Ranking Member Brown, and members of the House Civil Justice Committee, thank you for the opportunity to provide testimony in support of House Bill 606. My name is Kevin Shimp and I am the Director of Labor and Legal Affairs for the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate, and we represent over 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

In our efforts to champion economic growth for the benefit of all Ohioans, the Ohio Chamber supports HB 606 because all businesses need legal protections from coronavirus lawsuits in order to help Ohio's economy recover from the coronavirus pandemic.

Before the business shut downs or operation limits were put in place to stop the spread of coronavirus, Ohio's unemployment rate was at 4.7 percent, and for many business owners their biggest concern was finding enough workers. Also, in the 4<sup>th</sup> quarter of 2019, the Ohio Chamber of Commerce Research Foundation's Prosperity Pulse, which measures overall economic outlook for businesses, found that Ohio employers believed economic conditions were above average.

However, the coronavirus has taken its toll on Ohio's economy. Unemployment filings over a seven week period have exceeded the total number of filings made in the previous three years combined. Additionally, the most recent Prosperity Pulse shows a dramatic drop in economic outlook as optimism fell to a record low in the 1<sup>st</sup> quarter of 2020. Moreover, economic uncertainty was the number one issue for Ohio business owners.

To help address Ohio business owners' number one concern, the Ohio General Assembly can enact legal protections – like the ones contained in HB 606 – to reduce the likelihood that businesses will be subject to coronavirus litigation as they re-open. Mitigating an employer's risk will aid Ohio's economic comeback by removing an obstacle to re-opening and an incentive for businesses to remain closed. Likewise, rather than substantially limiting their business operations due to fear of litigation, businesses can focus on serving their customers like they did prior to the pandemic if they have the protections afforded to them in HB 606.

Under the legislation, no civil actions for damages may be brought alleging the transmission of a coronavirus infection caused harm to a person or property unless it can be proven by clear and convincing evidence that the infection was transmitted by reckless or intentional conduct or through willful or wanton misconduct on the part of the defendant.

The bill will also provide protections for manufacturers in lawsuits that allege their products caused an individual's coronavirus infection. This is important coverage, but the Ohio Chamber believes liability protections should also be extended to manufacturers who altered their production to create goods in response to the disaster, so these manufacturers have liability limitations regardless of what injury is alleged. For example, a manufacturer who went outside their normal scope of business to produce ventilators is likely not covered under HB 606 as drafted because an action alleging injury due to a defective ventilator will not allege the ventilator caused the individual to contract COVID-19.

Additionally, HB 606 also fixes an issue in Ohio law that only extends liability protections when healthcare providers are performing emergency care. This protection is insufficient in the care undertaken in response to the coronavirus because COVID-19 patients have a treatment plan that extends far beyond emergency care. House Bill 606 addresses this issue by providing the same emergency care liability limits throughout the continuation of care performed during a disaster or emergency.

The Ohio Chamber believes by offering employers liability limitations from COVID-19 lawsuits, the Ohio General Assembly is recognizing the important role businesses have played during the Stay at Home Order and the role they will play in re-opening Ohio's economy. For the essential businesses that remained opened during the Stay at Home Order, they served their communities by providing critical services to Ohioans during uncertain times. For the businesses that closed or substantially altered their operations during the Stay at Home Order but are now re-opening, they need to return to normal operations as soon as possible for Ohio's economy to rebound.

Due to the nature of the coronavirus, any individual who walks through an employer's door is a potential plaintiff regardless of whether the employer is complying with every government order, so leaving employers without the protections in HB 606 exposes them to litigation arising from a risk they cannot eliminate. For employers, these lawsuits are not the just desserts they deserve for lending a helping hand to their communities during the Stay at Home Order or for re-opening so nearly half a million Ohioans can get off unemployment and go back to work. In fact, over sixty percent of Americans agree that Congress should act to provide businesses with protections from coronavirus lawsuits like HB 606 contemplates, according to recent polling from the US Chamber of Commerce.

In closing, the Ohio Chamber urges your favorable consideration of HB 606 because its enactment will support Ohio companies who will play a vital role in returning the Buckeye State to prosperity following the coronavirus pandemic.

Thank you for your time, and I will be happy to answer any questions from the committee.