



*BEFORE THE SENATE JUDICIARY COMMITTEE
PROPONENT TESTIMONY ON SENATE BILL 308*

Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to provide testimony in support of Senate Bill 308 (SB 308). 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 SB 308 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 4th 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 1st 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 SB 308 – 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 SB 308.

Under the legislation, every business in Ohio as well as churches and non-profit entities will be granted qualified immunity from lawsuits alleging an individual was exposed to the coronavirus while on their premises. Also, manufacturers and other companies who provided products in response to the coronavirus pandemic will have protection from product liability lawsuits.

These liability protections will not exist if a business, church, or non-profit engages in intentional or willful misconduct.

In addition to exposure and product liability protections, SB 308 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. Senate Bill 308 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 COVID-19 exposure and product liability protections 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 SB 308 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 SB 308 contemplates, according to recent polling from the US Chamber of Commerce.

In closing, the Ohio Chamber urges your favorable consideration of SB 308 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.