

Congress Debates Business Liability Shield for COVID-19 Lawsuits

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Lawmakers are still negotiating the next round of federal coronavirus aid as the U.S. Senate tentatively prepares to adjourn for a month after Aug. 7. Protection for employers from COVID-19-related litigation is a major point of contention, with many Republicans supporting a liability shield and Democrats opposing the measure.

In remarks made on the U.S. Senate floor July 30, Senate Majority Leader Mitch McConnell, R-Ky., said a top priority is to "provide common-sense legal protections so that schools, hospitals and other employers can reopen without being buried in lawsuits."

Senate Minority Leader Chuck Schumer, D-N.Y., however, expressed concern about corporate legal immunity. "Americans on the brink of eviction are not crying out for a sweeping corporate liability shield. We need to focus on the needs of the American people," he tweeted (<https://twitter.com/SenSchumer/status/1288581821979033602>) on July 29.

We've rounded up articles and resources from *SHRM Online* and other trusted media outlets on business liability protection and other coronavirus relief proposals.

SHRM MEMBER-EXCLUSIVE RESOURCE SPOTLIGHT

Coronavirus and COVID-19 (www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx)

White House May Consider Delaying Business Protections

McConnell wants to ensure that the Senate proposal includes a liability shield before it is brought for a vote, and he wants the measure to apply to private businesses, schools, universities, hospitals and nonprofits. Democrats who oppose the legislation say a liability shield will hurt employees who are working in unsafe conditions due to the coronavirus and that the U.S. Labor Department has cited very few employers for COVID-19-related workplace safety violations. Since lawmakers are divided on the issue, the White House may be willing to make a deal on economic relief that leaves out the business liability protections, even though President Donald Trump's administration supports the measure.

(*The Washington Post* (<https://www.washingtonpost.com/business/2020/07/31/liability-shield-congress-bailout/>))

Lawmakers May Be Called Back from Recess

White House officials and congressional Democrats have been negotiating for several weeks but said they are not close to making a deal on the next coronavirus relief package. Many House members are on break and the Senate is scheduled to soon take a four-week recess, but members of Congress may have to report back to Washington, D.C., if a deal is reached.

(The Hill (<https://thehill.com/blogs/floor-action/scheduling/510219-this-week-negotiators-hunt-for-coronavirus-deal-as-august-break>))

State Liability Protection

Although federal lawmakers have yet to pass legislation protecting employers from coronavirus-related liability, many states have enacted or proposed their own laws holding employers harmless in COVID-19 lawsuits if they act in good faith in accordance with federal, state and local guidance and do not act recklessly. Employers should review the applicable laws, as some states require employers to follow specific steps, and some laws are broad while others only protect employers in certain industries, such as health care. Employers should also note that these protections may help businesses defend lawsuits from employees, customers and vendors alleging exposure to COVID-19, but they generally do not shield employers from COVID-19-related discrimination, disability or leave of absence claims, or lawsuits alleging violations of wage and hour laws.

(Littler (<https://www.littler.com/publication-press/publication/states-enact-laws-limiting-covid-19-liability>))

Federal Negotiations Continue

Two coronavirus economic stimulus bills are currently working their way through Congress. The Republican-backed proposal, which is called the Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act, includes business liability protection from COVID-19-related lawsuits, additional Paycheck Protection Program loans for certain qualifying businesses and a second round of stimulus checks. The proposal also includes a reduced federal unemployment benefit, though many Democrats want to extend the \$600 weekly federal supplement that expired on July 31.

In addition to renewing expanded federal unemployment benefits, the Democrat-backed Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act includes mandatory hazard pay for essential workers, new funding for state and local governments, student debt relief, and rental and mortgage assistance. The HEROES Act was passed by the U.S. House of Representatives in May and is currently being considered by the Senate. The Senate-proposed HEALS Act has not been voted on. Negotiations are ongoing in Congress and with the White House.

(SHRM Online (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/lawmakers-to-negotiate-next-coronavirus-stimulus-package.aspx))

4 COVID-19 Legal Questions You Should Answer

When it comes to HR legal issues these days, it's all coronavirus all the time. For the HR professional, navigating this seemingly endless and ever-changing legal maze can be quite daunting. Which issues are most important? What questions must I get answered? Where should my primary attention be? Here's what employment law attorneys had to say.

(SHRM Online (www.shrm.org/resourcesandtools/hr-topics/employee-relations/humanity-into-hr/pages/4-covid-19-legal-questions-you-should-answer.aspx))

Visit SHRM's resource page on the coronavirus and COVID-19 (www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx?utm_source=all&utm_medium=social&utm_campaign=communications~covid19~cdc_webcast).

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