

## New State Laws Provide COVID-19 Liability Protection for Employers

October 23, 2020

On October 22, 2020, Governor Whitmer signed three bills into law that create relief from liability for alleged COVID-19 exposure. They are now listed as:

[Act No. 236, Public Acts of 2020 – enrolled House Bill 6030](#) : establishes standards for immunity from liability for certain tort claims alleging COVID-19 exposure. Under the act, a person is immune from liability for a COVID-19 claim if the person operates in compliance with all federal, state, and local statutes, rules, regulations, executive orders, and agency orders related to COVID-19 that had not been denied legal effect at the time of the conduct or risk that allegedly caused harm. The act applies retroactively to a claim or cause of action that accrues after March 1, 2020.

[Act No. 238, Public Acts of 2020 – enrolled House Bill 6032](#) : creates a new act to prohibit an employee from reporting to work under certain circumstances related to COVID-19, to prohibit certain employer actions against certain employees, and to provide remedies. The act is effective retroactive to March 1, 2020.

The act prohibits an employee who tests positive for COVID-19 or who displays the principal symptoms of COVID-19 from reporting to work until all of the following conditions are met:

If the employee has a fever,

1. 24 hours have passed since the fever has stopped without the use of fever-reducing medications.
2. Ten days have passed since the later of the following:
  - o The date the employee's symptoms first appeared.
  - o The date the employee received the test that yielded a positive result for COVID-19.
3. The employee's principal symptoms of COVID-19 have improved.

The act also prohibits an employee who has close contact ((within 6 feet for 15 minutes or longer)with an individual who tests positive for COVID-19 or displays the principal symptoms of COVID-19 from reporting to work until one of the following conditions is met:

- Fourteen days have passed since the employee last had close contact with the individual.
- The individual the employee had close contact with receives a medical determination that he or she did not have COVID-19 at the time of that contact.

The act prohibits an employer from discharging, disciplining, or otherwise retaliating against an employee who does any of the following:

- Complies with the prohibitions described above, including when an employee who displays the principal symptoms of COVID-19 does not report to work and later tests negative for the disease.
- Opposes a violation of the act.
- Reports health violations related to COVID-19

Act No. 237 and 239, Public Acts of 2020 - enrolled House Bill 6031 and 6101: The bills together add two new sections to the Michigan Occupational Safety and Health Act (MIOSHA) to establish conditions for immunity from civil liability for an employer whose employee is exposed to COVID-19. Under the bills, notwithstanding any other provision of MIOSHA, an employer is not liable for damages under the act for an employee's exposure to COVID-19 if the employer was operating in compliance with all federal, state, and local statutes, rules, and regulations, executive orders, and agency orders related to COVID-19 that had not been denied legal effect at the time of the exposure.

View PA-0237: <http://www.legislature.mi.gov/documents/2019-2020/publicact/pdf/2020-PA-0237.pdf>

View PA-0239: <http://www.legislature.mi.gov/documents/2019-2020/publicact/pdf/2020-PA-0239.pdf>