

Legal Considerations in Missouri for Small Businesses after Governor Parsons signed Missouri Senate Bill 51 into law on July 7, 2021

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We at Fox Smith, LLC, wanted to reach out to our clients and friends in Missouri to help them understand some of the legal implications of Governor Parsons signing Senate Bill 51 into law on July 7, 2021, which establishes restrictions on liability for lawsuits related to Covid-19.

In the past year many small businesses, while remaining open as essential business, have moved to limit interactions with customers. Now as the country begins to reopen many small businesses have already reopened to the public at large or are considering the same.

Small businesses will need to consider the potential legal implications of reopening, and this recent legislation provides a specific defense to potential liability for actions related to Covid-19.

Senate Bill 51 establishes that no person or business entity shall be liable in any COVID-19 exposure action, unless the plaintiff can prove that: (1) The person engaged in recklessness or willful misconduct that caused the exposure; and (2) it was an actual exposure that caused a personal injury.

Further, the bill also provides that there is a rebuttable presumption that the plaintiff assumed the risk of an exposure if the practice posts a warning notice at the entrance with language substantially similar to the following:

“Warning

Under Missouri law, any individual entering the premises or engaging the services of the business waives all civil liability against the individual or entity for any damages based on inherent risks associated with an exposure or potential exposure to Covid-19, except for reckless or willful misconduct.”

The legislation goes on to state that any such lawsuit must be brought within two years after the actual, alleged, feared or potential exposure to Covid-19.

Finally, while the legislation does consider the imposition of punitive damages, it caps the limit of such damages to an amount in excess of nine times the amount of compensatory damages.

The situation with COVID-19 is ever changing and includes many unknown factors. Every small business is unique and individual plans, policies, and procedures should be made accordingly and may need to change as facts, laws, and unique individual situations develop. For any questions about general issues or to discuss specific individual situations, please contact the Pete Cosgrove at Fox Smith, LLC at www.foxsmithlaw.com or (314) 588-7000.