

50-STATE SURVEY

Covid-19 Immunity For Employers

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50-STATE SURVEY COVID-19 IMMUNITY FOR EMPLOYERS

STATE	STATUS	COMMENTS
Alabama	Yes. May 8 Proclamation	On May 8, 2020, Alabama Governor Kay Ivey issued a Proclamation which provides certain businesses and other covered entities immunity from liability for COVID-19-related death, injury, or property damage unless it is shown by "clear and convincing evidence" that the death, injury, or property loss was caused by the covered entity's wanton, reckless, willful, or intentional misconduct. Where there is liability, but no "serious physical injury," the covered entity is only liable for "actual economic compensatory damages" (not non-economic or punitive damages). A person asserting a wrongful death claim is only entitled to punitive damages.
Alaska	Partial, FCCS SB 241	Alaska Governor's May 18, 2020 bill provides a provision that extends immunity to a health care provider or manufacturer of personal protective equipment.
Arizona	Yes. HB 2912	On May 21, 2020, the Arizona House passed House Bill 2912. The proposed bill limits enforcement actions and civil liability during a public health emergency. Section 2 of the proposed bill provides immunity from civil liability to schools, churches and most businesses.
Arkansas	Yes. Executive Order 20-33	Arkansas Governor Asa Hutchinson issued an Executive Order that provides business and their employees with immunity from liability due to exposure to COVID-19. The immunity does not extend to willful, reckless, or intentional misconduct. There is a presumption that the actions are not willful or reckless if the business owner substantially complies with public health directives.
California	No.	On June 30, 2020, California Assembly Bill 1759 was re-referred to the Committee on Rules. The bill immunizes institutions of higher education from liability related to COVID-19 injuries. The Bill failed.
Colorado	No.	Colorado just concluded a special legislative session in which the Senate considered but did not pass SB9 and SB11, which would have provided civil liability immunity for small businesses. https://leg.colorado.gov/bills/sb20b-011
Connecticut	Partial, EO 7U EO 7V	On April 5, 2020 and April 7, 2020, Governor Lamont issued EO 7U and EO 7V, respectively, which provides liability protections for certain healthcare providers in responding to COVID-19. It also protects medical providers from lawsuits about shortages of PPE and other medical supplies.

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Delaware	Partial, 20 Del. C. § 3129	Pursuant to 20 Del. C. § 3129, qualified medical personnel engaged in emergency or disaster relief operations and activities shall not be liable for the death of or any injury to persons, or damage to property, as a result of such relief operations and activities.
Florida	No.	While Florida has yet to enact any civil immunity legislation related to COVID-19, Governor DeSantis told reporters on September 22, 2020 that he supports legislation limiting litigation related to COVID-19. Governor DeSantis did not provide any details regarding the nature of legislation that he would support, but suggested that the legislature could begin negotiations when it returns for post-election sessions on November 17, 2020. Following Governor DeSantis's remarks, Florida Chief Financial Officer Jimmy Patronis issued a similar statement in support of liability protections, outlining his three "guiding principles" for proposed legislation.
Georgia	Yes. LC 41 2517	GA has a liability shield that may be applicable to COVID-19 claims. On June 30, 2020, the Georgia General Assembly passed SB 359, which limits business liability by precluding lawsuits based on COVID-19 unless the claimant proves gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of emotional distress. SB 359 provides a rebuttable presumption that a customer has assumed the risk of infection if the business has either (1) provided notice on a receipt that says anyone entering the premises has waived his or her right to seek civil liability as a result of COVID-19 or (2) posts a sign at the entrance stating that the customer is waiving their right to sue and is assuming the risk of contracting COVID-19 by entering the premises. Like the immunity generally, the rebuttable presumption does not apply if the claimant can show gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of emotional distress. Because the rebuttable presumption does not apply to grossly negligent, reckless, or intentional conduct, it is largely duplicative of the general immunity the statute provides. Governor Kemp signed the bill into law on August 5, 2020.
Hawaii	Partial, <u>EO 20-05</u>	On April 16, 2020, Governor Ige issued Executive Order No. 20-05, which orders all health care facilities, professionals, and volunteers to render assistance in support of the State's response to the COVID-19 disaster as recognized by Emergency Proclamations. During the pendency of these emergency proclamations, health care employees who act in good faith are immune from civil liability for any death, injury, or property damage that occurs while rendering such assistance. Immunity does not apply to willful misconduct, gross negligence, or recklessness.



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Idaho	Yes. HB 2 HB 3 HB 4 HB 5	On March 20, 2020, Governor Little signed House Bill 529, which provides civil immunity for certain professionals during disasters in response to a declared national, state, or local emergency, disaster, or catastrophic event. Additionally, on August 24, 2020, the Idaho House introduced House Bill 2, House Bill 3, House Bill 4, and House Bill 5, respectively. These bills provide COVID-19 liability protections to persons, accredited institutions of higher education and to persons who take actions in good faith to address a coronavirus-related disaster or emergency, which includes the owners and operators of any premises.
	HB 6	Idaho Coronavirus Immunity Act. Enacted August 27, 2020.
	Yes. EO 2020-19	Effective April 1, 2020, Governor Pritzker's Executive Order 2020-19 immunizes health care professionals, health care volunteers, and health care facilities from civil liability for any injury caused by any act or omission that occurred while the professional, volunteer, or facility was providing health care services in response to COVID-19.
Illinois		The Executive Order is based on section 6(c)(1) of the Illinois Emergency Management Agency Act (IEMA Act), 20 ILCS 3305/6, which provides that the Governor is authorized to "make, amend, and rescind all lawful necessary orders, rules, and regulations to carry out the provisions of this Act within the limits of the authority conferred upon the Governor."
		Public Act 101-0633 creates a rebuttable presumption that the exposure to and contraction of COVID-19 by a "COVID-19 first responder or front-line worker" arises out of and in the course of the employee's employment, and is causally connected to the hazards or exposures of the employee's employment.
	Yes. IC 34-40	On March 6, 2020, Governor Holcomb issues Executive Order 20-02 declaring a public-health emergency due to COVID-19. On March 30, 2020, Governor Holcomb issued Executive Order 20-13 calling upon healthcare workers to help respond to the public-health emergency. Existing Indiana law (IC 34-40, Chapter-13.5) protects facilities and individuals from civil liability for injuries resulting from healthcare services provided in response to an emergency.
		Businesses Covered:
Indiana		 To qualify for immunity a healthcare employee must: Have a license to provide health care services under Indiana law or the law of another state; and Provide a health care service: (A) within the scope of the person's license to another person; and (B) at a location where health care services are provided during an event that is declared as a disaster.
		A healthcare facility is a facility or other location that is providing health care services in response to an event that is declared as a disaster emergency.

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lowa	Yes. SF 2338	Governor Kim Reynolds signed into law S.F. 2338, the "COVID-19 Response and Back-to-Business Limited Liability Act," codified in lowa Code §§ 686D.1-8, which provides limited liability to business owners. A person who possesses or is in control of a premises, including a tenant, lessee, or occupant of a premises, who directly or indirectly invites or permits an individual onto a premises, is not liable for civil damages for any injuries sustained from the individual's exposure to COVID-19 unless the person who possesses or is in control of the premises: Recklessly disregards a substantial and unnecessary risk that the individual would be exposed to COVID-19; Exposes the individual to COVID-19 through an act that constitutes actual malice; or Intentionally exposes the individual to COVID-19. There is also a safe harbor for compliance with regulations, executive orders, or public health guidance. A person is not liable for civil damages for any injuries sustained from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care was in substantial compliance or was consistent with any federal or state statute, regulation, order, or public health guidance related to COVID-19 that was applicable to the person or activity at issue at the time of the alleged exposure or potential exposure. Iowa Code § 686D.3 states as follows: A person shall not bring or maintain a civil action alleging exposure or potential exposure to COVID-19 unless one of the following applies: 1. The civil action relates to a minimum medical condition. 2. The civil action involves an act that was intended to cause harm. 3. The civil action involves an act that constitutes actual malice.
Kansas	Yes. HB 2016	Signed into law by Kansas Governor Laura Kelly on June 8, H.B. 2016 creates the "COVID-19 Response and Reopening for Business Liability Protection Act." A person, or agent of such person, conducting business in Kansas is immune from liability in a civil action for a COVID-19 claim if such person was acting pursuant to and in substantial compliance with public health directives applicable to the activity giving rise to the cause of action when the cause of action accrued. This protection expires on January 26, 2021 and applies retroactively to any cause of action accruing on or after March 12, 2020.



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	Yes. SB 150	On March 30, 2020, Governor Beshear signed Kentucky Senate Bill 150 into law which provides limited immunity to the following entities:
Kentucky		Healthcare providers, which are protected from liability for ordinary negligence related to healthcare decisions involving COVID-19; and
		Makers and suppliers of PPE and personal hygiene supplies, which are protected from claims of ordinary negligence and product liability if the manufacture/provision of such supplies is not in the company's normal course of business.
	Yes.	
	<u>HB 826</u>	Under H.B. 826, which became Act 336 Eff. 6/13/20, adding La.R.S. 9;2800.25 and R.S. 29:773, signed by Louisiana Governor John Bel Edwards on June 13, states that no person or local or state government or political subdivision is liable
	<u>La.R.S.</u> § 9:2800.25	for civil damages for injury or death resulting from exposure to COVID-19 in the course of, or through the performance of, a
Louisiana	La.R.S. § 29:773	person's business operations unless it is proven that the person, government, or political subdivision was not in substantial compliance with applicable COVID-19 procedures, and unless the damage was caused by gross negligence or wanton or reckless misconduct.
	<u>HB 59</u>	
	<u>La.R.S. § 17:439.1</u>	H.B. 59, which became Act 9 Eff. 3/11/20, adding La.R.S. 17:439.1 and 3392, provides immunity to public and private schools, postsecondary institutions and their governing authorities and employees. Enacted July 8, 2020.
	La.R.S. § 17:3392	postsecondary institutions and their governing authorities and employees. Enacted July 6, 2020.
Maine	No.	
	Partial,	On March 5, 2020. Gov. Hogan issued a Declaration of State of Emergency and Existence of Catastrophic Health Emergency - COVID-19. Pursuant to Md. Code Ann. Pub. Safety § 14-3A-06, a health care provider is immune from civil or criminal liability if the health care provider acts in good faith and under a catastrophic health emergency proclamation.
Maryland	§ 14-3A-06	
Massachusetts	Yes. SB 2640	Governor Baker signed Massachusetts Bill S. 2640 into law on April 1, 2020. The law provides immunity to healthcare facilities, professionals and volunteer organizations from civil liability for any damages allegedly sustained by an act or omission in the course of providing care during the COVID-19 emergency, provided that the covered entities were providing health care services in good faith.

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Michigan	Yes. HB 6030	Enacted Oct. 22, 2020. A person (including school districts) who acts 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 is immune from liability for a COVID-19 claim. An isolated, de minimis deviation from strict compliance with such statutes, rules, regulations, executive orders, and agency orders unrelated to the plaintiff's injuries does not deny a person the immunity provided in this section.
Minnesota	Partial.	The Minnesota Emergency Management Act of 1996, Minnesota Statutes Chapter 12, immunizes "responders" from civil liability and administrative sanctions when acting in concert with an "emergency plan."
Mississippi	Yes.	HB 1783 - Passed House - Civil Liability. A person in control of a premises, who attempts, in good faith, to follow any applicable public health guidance and invites or permits any person onto a premises shall be immune from suit for civil damages for any injuries sustained from exposure to COVID-19, except when damages, injuries or death resulted as the result of actual malice, or willful or intentional misconduct. No person who attempts, in good faith, to follow applicable public health guidance shall be found to have committed actual malice, or willful or intentional misconduct under this section. Failure to comply with public health guidance alone shall not be sufficient to establish that a person committed actual malice, willful or intentional misconduct under this section. This section does not affect workers' compensation law. The bill also contains a section limiting liability on products and cleaning/disinfecting suppliers.
		SB 3049 - Signed 7/8/20 as amended. Establishes that a person who attempts in good faith to follow applicable public health guidance shall be immune from suit for civil damages for any injury related to exposure or potential exposure to COVID-19 in the course of or through the performance or provision of its functions or services. This immunity also applies for the time before applicable public health guidance was available. In addition, an owner, lessee, occupant or any other person in control of a premises, who attempts, in good faith, to follow applicable public health guidance and directly or indirectly invites or permits any person onto a premises shall be immune from suit for civil damages for any injuries or death resulting from actual or alleged exposure or potential exposure to COVID-19. The immunity does not apply where the plaintiff shows, by clear and convincing evidence, that a defendant, or any employee acted with actual malice or willful, intentional misconduct. The bill doesn't alter workers' compensation law.



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Missouri	No.	On May 5, the Missouri House of Representatives adopted SB 662/ <u>SB 1</u> which provides that any healthcare provider who in good faith renders care in connection to the COVID-19 pandemic shall not be liable for any civil damages (unless grossly negligent/willful and wanton) during a period where an executive order declaring a state of emergency is in effect. Due to the House's amendments, the Missouri Senate must vote on the bill again before it will be submitted to Governor Parson for consideration and signature into law. On November 12, 2020, Governor Parson announced a special legislative session to address COVID-19 liability. He called on the General Assembly to enact legislation to provide liability protection for health care providers who provide care as necessitated by a declared state of emergency. In response, SB 1 was introduced into the Missouri Senate on November 13. The bill provides that any health care provider who provides care as necessitated by an emergency shall not be liable for civil damages or administrative sanctions.
Montana	No.	
Nebraska	Partial, per § 25-21,282	On March 31, Governor Ricketts signed EO 20-12 which suspends several statutes and their regulations from the Health Care Facility Licensure Act relating to specific healthcare facilities and services. Immunity is not addressed in the Order. Thus far no Nebraska legislation or executive orders have been enacted to specifically provide immunity from liability related to COVID-19. However, under Nebraska Revised Statute Annotated § 25-21,282, immunity from liability is afforded to corporations (other than vendors and manufacturers of rescue equipment) who donate communication equipment, PPE, or medical supplies that are used for emergency medical services to fire departments, rescue/emergency services, or political subdivisions.
Nevada	Yes. <u>SB 4</u>	On August 11, Nevada Governor Steve Sisolak signed into law S.B. 4, which limits liability of certain businesses for personal injury or death resulting from exposure to COVID-19, if the covered entity substantially complied with controlling health standards. This immunity does not apply to acts of gross negligence where the gross negligence was the proximate cause of the personal injury or death. Any complaint in a civil action must be pled with particularity and the court is required, as a matter of law, to determine substantial compliance with controlling health standards.
New Hampshire	No.	

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New Jersey	Yes. SB 2333	On April 13, 2020, Governor Murphy signed into law SB 2333, granting immunity to healthcare professionals, facilities, and systems during the state's public health emergency. AB 3951 – Introduced 4/13/20 - If enacted would provide civil immunity to employers for damages arising from an employee's injury or death related to exposure COVID-19 during the state of emergency declared by the Governor in Executive Order 103 of 2020. AB 4189/ SB 2502- Introduced 6/4/20 - Limits civil liability. An employer is immune from civil liability for damages or injury resulting from exposure of an individual to COVID-19 on the premises owned or operated by the employer, or during activity managed by the employer. Immunity does not apply to willful misconduct; reckless infliction of harm; or intentional infliction of harm.
New Mexico	No.	HB 16 - Failed 6/23/20 - Establishes tort claim protections for businesses against breach of duty of care claims related to COVID-19 exposure.
New York	Pending.	SB 8800 – Introduced 7/17/20 – Provides immunity from liability in a civil action to individuals, businesses, organizations, universities, and schools for the spread or possible transmission of COVID-19 caused by an act or omission of the entity if the entity made a reasonable efforts to act in compliance with applicable guidance from a federal, state, local, territorial or tribal public health authority; or appropriate professional or industry standards, recommendations or guidance. The immunity does not apply if harm to another individual is shown, by clear and convincing evidence, to be caused by an act or omission constituting willful or criminal misconduct, reckless misconduct, gross negligence, or a conscious flagrant indifference to the rights or safety of the individual harmed by such covered entity. The bill states that infection with COVID-19 shall not be the basis for damages arising from bodily injury, except to the extent that such injury is serious bodily injury. AB 10838 / SB 8587 – Pending. SB 8587 was ordered to third reading on the Senate floor on 7/21/20. Makes void and unenforceable any agreement that exempts an employer from liability for negligence related to the COVID-19 pandemic. This applies to provisions in contracts, agreements or understandings relating to the employment, hiring or retaining of
		the services of any person that exempts the employer or hiring party from liability for damages for personal injury or death caused by the employer's negligence in connection with handling of measures related to the COVID-19 pandemic. Allowable. The bill states these provisions shall not preclude an employer or hiring party from requiring indemnification for damages arising out of personal injury or death caused by or resulting from the negligence of a party other than the employee, independent contractor and intern, whether or not the employer or hiring party is partially negligent.



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North Carolina	Yes. <u>HB 118</u>	On July 2, 2020, North Carolina Governor Roy Cooper signed into law H.B. 118, which gives individuals and private, nonprofit, government, and other entities limited liability from claims arising from acts or omissions alleged to have resulted in COVID-19 infection that do not amount to gross negligence, willful or wanton conduct, or intentional wrongdoing. Individuals or entities who own or have in their possession, control, or custody a premises must provide reasonable notice of actions taken for the purpose of reducing the risk of COVID19 transmission to individuals who are present on the premises, and will not be held liable for the failure of any individual to comply with rules, policies, or guidelines contained in the required notice. This provision does not apply to premises owned by an individual, other than premises that are used in the operation of a sole proprietorship, or to claims before the Industrial Commission seeking benefits payable under the Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes.
North Dakota	No.	
Ohio	Yes. HB 606	Signed by Ohio Governor Mike DeWine on September 14, H.B. 606 bars any action for damages for injury, death, or loss to person or property against any "person" (which includes a school, for-profit or nonprofit entity, governmental entity, religious entity, or state institution of higher education) when the civil cause of action is based, in whole or in part on "the exposure to, or the transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2, or any mutation thereof," unless it is established that the exposure to or transmission or contraction of virus or mutation was by: Reckless conduct; Intentional misconduct; or Willful or wanton misconduct on the part of the "person" against whom the action is brought. A government order, recommendation, or guideline does not create, nor can it be construed as creating a duty of care upon any person that may be enforced in a cause of action, or that may create a new cause of action or substantive legal right against any person as to matters contained in the government order, recommendation, or guideline. There is a presumption that any such government order, recommendation, or guideline is not admissible as evidence that a duty of care, a new cause of action, or a substantive legal right has been established. There are separate provisions for health care providers.

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Oklahoma	Yes. <u>S.B. 1946</u>	On May 21, Oklahoma Governor Kevin Stitt signed into law S.B. 1946, under which a person or agent of the person who conducts business in the state is not liable in a civil action for an injury from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care was in compliance or consistent with federal or state regulations, a Presidential or Gubernatorial Executive Order, or guidance applicable at the time of the alleged exposure. Where two or more sources of guidance are applicable to the conduct or risk at the time of the alleged exposure, there is no liability if the conduct is consistent with any applicable guidance.
Oregon	Partial HB 4402 A	On December 21, 2020 the Oregon legislature passed HB 4402 A which provides schools limited immunity from claims for damages related to COVID-19 infection suffered as a result of acts or omissions performed by the school: 1) in the course of operating an education program; and 2) when the school is operating in compliance with COVID-19 emergency rules in effect at the time of the act or omission.
Pennsylvania	No	On Dec. 1, 2020, Gov. Wolf vetoed bill that would have limited liability of school, healthcare providers and other businesses from COVID-19 related lawsuits.
Rhode Island	Partial, 30-15-15	On April 10, 2020, Gov. Raimondo issued an executive order extending statutory immunity provided to "disaster response workers" under R.I. Gen. Laws § 30-15-15(a) to responding health care facilities, health care workers, other individuals and organizations assisting in responding to COVID-19.
South Carolina	Partial.	Governor McMaster declared a state of emergency on March 13, 2020, triggering automatic protections for certain healthcare providers under the South Carolina Emergency Health Powers Act (S.C. Code Ann. §§ 44-4-100). This statute is not unique to the COVID-19 pandemic and does not immunize any healthcare providers that are not specifically appointed by the state to assist in the relief effort.
South Dakota	No.	
Tennessee	Yes. <u>S.B. 8002</u>	S.B. 8002, signed into law by Governor Bill Lee on August 17, limits liability related to loss, damage, injury, or death due to COVID-19. In a claim against an individual or legal entity for loss, damage, injury, or death arising from COVID-19, the claimant must prove by clear and convincing evidence that the individual or legal entity "proximately caused the loss, damage, injury, or death by an act or omission constituting gross negligence or willful misconduct." The new law does not create a cause of action or eliminate any required element of any existing cause of action. It also does not affect workers' compensation claims. Further, it does not amend, repeal, alter, or affect any immunity or limitation of liability available under current law or contract.



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Texas	No.	Currently, Texas does not have any state statutes with liability protections. Sen. Cornyn from Texas has presented federal legislation – Safe to Work Act
Utah	Yes. <u>S.B. 3007</u>	Under S.B. 3007, signed by Utah Governor Gary Herbert on May 4, 2020, individuals, companies, and other covered entities are immune from civil liability for damages or an injury resulting from exposure of an individual to COVID-19 on the premises they owned or operated or during an activity they managed, except where there is willful misconduct, or reckless or intentional infliction of harm. The liability does not apply to Utah's Workers' Compensation Act, Occupational Disease Act, Occupational Safety and Health Act, or Governmental Immunity Act of Utah.
		Governmental Immunity Act of Utah would arguably apply to claims brought against a public educational institution. The Act provides, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to: (i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments; (ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act; (iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities.
Vermont	Partial, <u>EO 01-20</u>	On April 10, 2020, Governor Scott issued an addendum to the state's emergency declaration in response to COVID-19 [Addendum 9 to Executive Order 01-20], to clarify and expand upon civil immunity for healthcare providers during declarations of emergency.
Virginia	Partial, EO 60	Virginia Code extends liability protections to certain medical providers during disasters and emergencies except in cases of gross negligence or willful misconduct. Gov. Northam issued an executive order clarifying that the COVID-19 pandemic counted as a disaster under state law. This protection did not apply, however, to certain assisted living facilities and other senior care centers.
Washington	No.	

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West Virginia	No.	On May 11, 2020, West Virginia Senate President Mitch Carmichael announced he is drafting legislation which aims to protect West Virginians from liability related to the COVID-19 pandemic and we are still awaiting such legislation.
Wisconsin	Partial, 2019 WI 185	On April 15, 2020, the Wisconsin legislature enacted Act 185, which provides immunity from civil liability to healthcare providers under certain circumstances. The law also provides that manufacturers of "emergency medical supplies" are not liable for injury or death caused by the products it has sold at cost or donated. Summary of Legislation can be found here.
Wyoming	Yes. <u>S.F. 1002</u>	Signed by Wyoming Governor Mark Gordon on May 20, 2020, S.F. 1002 provides immunity from liability to a business or other covered entity that in good faith follows the instructions of a state, city, town, or county health officer, or who acts in good faith in responding to the public health emergency. Immunity does not apply to acts or omissions constituting gross negligence or willful or wanton misconduct.

Helpful Resources

National Conference of State Legislatures – COVID-19 legislation - https://www.ncsl.org/research/health/state-action-on-coronavirus-covid-19.aspx



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