



BUSINESS & INDUSTRY ASSOCIATION
New Hampshire's Statewide
Chamber of Commerce

May 5, 2020

Commissioner Taylor Caswell and
Members of the Governor's Economic Reopening Task Force
NH Department of Business and Economic Affairs
1 Eagle Square, Suite 100
Concord, NH 03301

Dear Commissioner Caswell and Members of the Governor's Economic Reopening Task Force:

As you and other policy leaders focus on "reopening" New Hampshire's economy, BIA has focused a great deal of its attention on a key issue that will impact the speed with which businesses reopen or return to pre-pandemic operations. That issue is liability exposure from COVID-19-related litigation. Absent some type of protection or legal "safe harbor," similar to what hospitals, nursing homes and other long-term care providers already receive, enterprises of all shapes and sizes will find themselves targeted with lawsuits related to the spread of COVID-19, even if they make good faith efforts to prevent its spread. This will deter some businesses from reopening and others from returning to pre-pandemic operations, exactly the opposite of what policy makers hope to achieve.

While discussion about liability protection for businesses is taking place at the federal level, there is no consensus or agreement. Businesses in New Hampshire do not have the luxury to wait and hope something is achieved there. A BIA working group of business leaders and some of the best legal minds in the state has been researching this issue, including what other states in New England, and elsewhere are considering, and drafted language for legislation here in New Hampshire to create liability protections for New Hampshire enterprises.

Attached you will find our draft language that creates a legal safe harbor for businesses from COVID-19 related litigation. This language is meant to be a starting point for discussion, not the final product. It's important to note this language is focused on helping businesses who have made, and continue to make, good faith efforts to comply with state and federal COVID-19 related guidelines to keep their employees and customers safe. It's not intended to protect "bad actors."

In a separate communication today, we urged Governor Sununu to use our language, or similar language, for an emergency order to protect businesses struggling to reopen, or stay financially viable, from unnecessary legal action against them. Issuing such an order will give the legislature the time it will need to settle on permanent language when it fully reconvenes.

Thank you for carefully reviewing BIA's draft language to create a legal safe harbor to protect New Hampshire enterprises from COVID-19 related liability litigation. We welcome your thoughts and look forward to working with you to quickly to ensure it becomes law.

Best Regards,

A handwritten signature in blue ink, appearing to read "Jim Roche".

Jim Roche
President

C: Governor Chris Sununu

PROMOTING A HEALTHY CLIMATE FOR JOB CREATION AND A STRONG NEW HAMPSHIRE ECONOMY

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