

## Michigan Enacts COVID-19 Liability Shield and Employee Protection Bills

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October 23, 2020

Michigan Governor Gretchen Whitmer signed into law several bills on October 22, 2020, including those providing a liability shield to individuals and entities that comply with COVID-19-related government directives and offering protections for certain employees who are required to stay off work because they contract, exhibit symptoms of, or are exposed to COVID-19. These include:

- **HB 6030** – titled as the “COVID-19 Response and Reopening Liability Assurance Act” – provides immunity from tort liability from COVID-19 claims to a person (defined broadly to include individuals, businesses, government entities, education institutions, and non-profit organizations) acting in compliance with COVID-19-related laws, rules, regulation and orders that “had not been denied legal effect at the time of the conduct or risk that allegedly caused harm.” Immunity, however, is not denied because of “an isolated, de minimis deviation from strict compliance” with COVID-19-related government directives.
- **HB 6031** amends the Michigan Occupational Safety and Health Act to provide immunity from liability under this law for an employee’s exposure to COVID-19 to an employer operating in compliance with COVID-19-related laws, rules, regulation and orders that “had not been denied legal effect at the time of the exposure.” Similar to HB 6030, “an isolated, de minimis deviation from strict compliance” does not defeat the employer’s immunity provided by HB 6031.
- **HB 6032** contains the following employee protections:
  - Employees who test positive for COVID-19, display its principal symptoms, or (with exceptions for certain occupations) come in close contact with a confirmed or suspected case of COVID-19 are not to report to work until specific conditions are met (including specified time periods have elapsed).
  - Employers are prohibited from discharging, disciplining, or retaliating against an employee who (1) complies with the requirement of this law to not report to work due to COVID-19, (2) opposes to a violation of HB 6032, or (3) reports health violations related to COVID-19. However, these protections do not apply to an employee who displays the principal symptoms of COVID-19 and fails to make a reasonable effort to schedule a COVID-19 test within 3 days after being asked to get tested by the employer.
  - Employees have a cause of action for violations of the act with a minimum damage award of \$5,000.

HB 6030, HB 6031, and HB 6032 are effective retroactively to March 1, 2020.

On October 20, 2020, the Governor also signed into law **SB 886**, which amends the Michigan Employment Security Act to add several provisions concerning unemployment benefits during the COVID-19 pandemic. Generally, the law extends the maximum period of benefit eligibility in a benefit year from 20 weeks to 26 weeks, relaxes requirement on shared-work plans, increases eligibility for unemployment benefits for individuals leaving work for certain reasons that are related to COVID-19, and relieves employers from being charged for benefits paid through December 31, 2020.

If you have any questions, please feel free to contact the authors or your Miller Canfield attorney.