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Kutak Rock Client Alert

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Does Your Business or Organization Have Its COVID-19 Notice Posted?

August 24, 2021

Beginning August 28th, a new law takes effect in Missouri to protect for-profit and not-for-profit businesses against liability for any persons claiming that they contracted COVID-19 because of the acts or omissions of the business or organization. This includes, but is not limited to, retail businesses, health care entities, and charitable organizations. The requirements are simple to obtain the protections afforded by the new law. Post a sign or written notice in a clearly visible location at the entrance of the business or organization that is the same or substantially similar to the following notice:

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 the exposure or potential exposure to COVID-19, except for recklessness or willful misconduct.

Compliance with these requirements means that no business or organization may be held liable for COVID-19 exposure unless it can be proven by clear and convincing evidence that recklessness or willful misconduct caused the COVID-19 exposure that resulted in personal injuries.

For religious institutions, the standard is even higher. There must be proof of a religious institution's intentional misconduct, and religious institutions are not required to post any notice.

The new law also includes separate liability protections for manufacturers, distributors, donors, etc. in connection with the use or misuse of pandemic-related products, as long as a product is not a vaccine or gene therapy. The law is designed to protect against liability for personal injuries from the administration or use of certain products for the treatment of or protection against COVID-19. Injured parties must prove by clear and convincing evidence that their injuries were caused by reckless or willful misconduct stemming from the use or misuse of the product at issue.

Additionally, evidence that a business or organization adopted subsequent remedial measures to address or mitigate the spread of COVID-19 after a potential exposure cannot be used to prove the business' or organization's culpability or liability to the claimed injured party.

This law expires in four years.

For more information, please review Mo. Rev. Stat. §§ 537.1000 to 537.1035.

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