



## Misleading Claims vs. the Reality About Business Immunity

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*Below are some misleading claims made by industry groups and conservative lawmakers who want to give corporations legal immunity from coronavirus-related harms to workers, consumers and patients. Here's a reality check on what they're saying.*

*INDUSTRY CLAIM: We're not asking for blanket immunity, just a limited "safe harbor" for businesses that follow safety standards.*

*REALITY CHECK: Businesses are asking for immunity that overrides the laws of all 50 states, even for those that fail to take reasonable care.*

- Big business' idea of a narrow immunity proposal is one that exempts an untold number of industries from the laws of all 50 states – laws that provide people a way to hold corporations accountable. This sweeping federal overreach would lead to more illnesses for workers and consumers and more preventable nursing home deaths, and it would slow our economic recovery from the pandemic.
- Immunity for businesses that follow safety standards is nonsensical when existing federal guidelines require almost nothing of businesses, the U.S. Departments of Labor and Agriculture have [cut back on enforcement](#), and the Trump administration is [refusing](#) to put in place science-based, enforceable safety standards.
- Shielding companies from liability when they comply with the government's informal guidance – which is not binding on companies and can change at any time – would discourage businesses from adopting additional safety measures in situations where they reasonably can do so.
- U.S. Senate Majority Leader Mitch McConnell (R-Ky.) recently [said](#) that he would like to grant businesses immunity retroactively, going back to December 2019 and lasting until 2025. That's five full years without accountability.

*INDUSTRY CLAIM: Businesses need a liability shield for the economy to recover.*

*REALITY CHECK: Safe practices are the key to a sustainable economic recovery.*

- Federal Reserve Chair Jerome Powell recently [stated](#) that the economy will fully recover only if people feel confident that it is safe to shop and dine out.
- Accountability under the law gives businesses the incentive to act responsibly. Without the incentive to put safety ahead of profits, we can't reopen the economy without risking

an explosion of infections and fatalities beyond anything we've seen so far, as well as a longer, deeper economic downturn that harms everyone.

*INDUSTRY CLAIM: Tort law is a giveaway to trial lawyers and a recipe for frivolous lawsuits.*

*REALITY CHECK: Allowing workers, consumers and patients to hold companies accountable in court hasn't impeded our economy in the past, and granting businesses immunity won't restore our economy today.*

- This claim is a decades-old big business talking point. So far, [fewer than 100 cases](#) have been filed claiming wrongful death or seeking to hold a company liable for contracting COVID-19. Many of the remaining COVID-19-related lawsuits are challenging price gouging or fake treatments.
- Trial lawyers don't make money from frivolous lawsuits. To prevail in a case concerning the coronavirus, the plaintiff would need to prove that the company did not take "reasonable care" to protect her from harm, that the lack of reasonable care caused the harm and that she experienced damages as a result. When these facts can be proven, the case is not frivolous; it is meritorious.
- Access to the civil justice system deters wrongdoing and provides compensation for people harmed by the negligence of others. Immunity would benefit only the wrongdoers.

*INDUSTRY CLAIM: A liability shield is key to protecting small businesses.*

*REALITY CHECK: State laws already protect businesses that act reasonably.*

- A network of more than 30,000 small business owners nationwide sent a [letter](#) to Congress opposing immunity from legal liability, because state laws already protect responsible business owners who act reasonably.
- Granting immunity from lawsuits by injured workers or consumers would give bad actors a competitive advantage at the cost of people's lives. It would create a race-to-the-bottom dynamic that would reward businesses that rush to reopen, cut corners and put profits before safety.
- In a U.S. Chamber of Commerce [poll](#) of small business owners, a liability shield was dead last on their list of priorities to help them weather the pandemic. True to form, the Chamber is once again using small businesses as political cover to lobby for one of its longtime priorities.

*INDUSTRY CLAIM: Coronavirus lawsuits will drive companies out of business.*

*REALITY CHECK: The only businesses that have anything to worry about are those that fail to take reasonable steps to protect workers and consumers.*

- Neither workers nor consumers are flocking to courts over exposure to the coronavirus at work or while shopping. Most of the small number of COVID-19-related lawsuits are challenging price gouging or charlatans selling sham treatments, individuals seeking [injunctive relief](#) to require adequate protections, [contractual disputes](#) brought by

consumers seeking refunds for services that they never received, or small businesses suing insurance companies over denial of coverage for business interruption.

- Economic recovery will require public confidence that businesses are operating as safely as possible. Letting them off the hook when they fail to do so would sabotage that effort and make the pandemic worse. If people do not trust that stores, offices and workplaces are safe, they will refuse to return to them.

*INDUSTRY CLAIM: We need a uniform national standard to ensure workers are safe.*

*REALITY CHECK: Big business is lobbying for uniform immunity from coronavirus-related lawsuits. They're lobbying against uniform worker safety standards.*

- While big business groups lobby for immunity from coronavirus-related lawsuits, the Trump administration [refuses](#) to issue worker safety standards. The head of the U.S. Department of Labor, Eugene Scalia, said he [doesn't think](#) a worker safety standard is needed. (As a lawyer in private practice, Scalia represented the U.S. Chamber of Commerce, which vigorously opposes a uniform worker safety standard.)
- Clear, specific and enforceable direction from expert regulators not only would protect workers and consumers, but would reduce businesses' potential for liability by reducing the spread of the virus.
- State law – not federal law – provides the mechanism by which injured individuals hold corporations accountable for injury. Proposals to grant corporations immunity from liability are asking Congress to override the laws of all 50 states. That's a colossal overreach by the federal government.

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