



Testimony of Florida Consumer Action Network (FCAN) and Florida PIRG in Opposition to SB 72, by Sen. Brandes, Civil Liability for Damages Relating to COVID-19

Chair Brandes and the Senate Judiciary Committee,

The Florida Consumer Action Network and Florida PIRG are statewide non-partisan, non-profit consumer advocacy groups with thousands of members.

We rise in strong opposition to SB 72, which is an unnecessary, overreaching and harmful effort to make it harder for workers and consumers to seek justice when harmed through the failure of almost any Florida business or institution, as defined broadly by SB 72, to exercise reasonable care to protect against COVID-19.

It is an unnecessary measure because the lawsuit tsunami it claims has not occurred. Businesses are suing their insurance companies for COVID-19 claims related to business interruption, but consumers and workers are not filing COVID-19 lawsuits.

SB 72 is overreaching because the procedural hurdles it enacts both before a consumer or worker can bring a lawsuit and then to advance a COVID-19 claim are actually insurmountable barriers for consumers and workers. A case must both be pleaded in particularity and accompanied by a signed affidavit that attests to a qualified physician's belief, within a reasonable degree of medical certainty, that COVID-19-related damages, injury, or death occurred as a result of the defendant's acts or omissions. And even if that obstacle is somehow crossed, A "good faith" defense would establish absolute immunity? If the claim gets beyond that hurdle, it must demonstrate "at least gross negligence proven by clear and convincing evidence?"

Other consumer advocates and consumer protection attorneys will explain these flaws in SB 72 in greater detail.

Finally, it is harmful, because when nobody is accountable, nobody is safe. SB 72 protects wrongdoers and those businesses that would cut corners or act carelessly. Existing liability laws simply require businesses to take reasonable care. SB 7 accomplishes one thing and one thing only when it protects corner-cutters and wrongdoers: it places all others at risk, both innocent workers and consumers as well as businesses that take reasonable care. When nobody is accountable, nobody is safe.

Please vote NO on SB 72.