

**Testimony of Susan McGrath, Executive Director, Florida Consumer Action Network
Covid-19 Liability - SB 72 (Sen. Brandes)
Barcode 254800 by Sen. Rouson**

Chair Brandes and Judiciary Committee Members:

Florida Consumer Action Network (FCAN) rises in support of Sen. Rouson's amendment Barcode 254800. Our concern is that the bill states there is "practical, brightline, guidance" protecting prudent businesses and alleviating liability concerns, while also continuing to protect public health. It seems to us that the current language in the bill -- 'guidance and regulations' -- is not "brightline" and won't do what is suggested.

- Instead of "brightline standards" there is only "good faith effort" to comply with some guidelines, which is just not the same thing.
- The bill does not say which guidelines the businesses have to comply with.

Sen. Rouson's amendment would establish those needed guidelines and protect public health.

The governor and the CDC are very clear on what businesses must comply with. It is only fair to hold businesses responsible for complying and doesn't reward businesses that thumbed their noses at basic safety regulations during the pandemic.

Also, the bill gives all the power to a judge to decide whether or not the case can move forward after an evidentiary hearing. But a judge is not supposed to make the final decision on the facts of the case. That's not our judicial system. This amendment would put the question of immunity before the court as a preliminary issue to be decided at a summary judgment hearing. This is a familiar process in Florida courts and will make it easier to determine immunity in these cases. The defendant could have immunity determined at any time, including before a jury, but this would clarify the role of the judge if at summary judgment.

The amendment also clarifies that the immunity is from suits based on negligence. This is in line with what I believe is the intent of the sponsor and so this amendment clarifies that. We know that most of the COVID-19 cases are businesses suing their insurance companies for business interruption costs. This amendment will make sure that the bill doesn't take away the rights of the businesses to pursue those cases.

Thank you.