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May 11, 2020

The Honorable Lindsey Graham
Chairman
Senate Committee on the Judiciary
290 Russell Senate Office Building
Washington, DC 20510

The Honorable Diane Feinstein
Ranking Member
Senate Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitch McConnell
Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

Re: State Attorneys General on COVID-19 Pandemic Liability Protections

Dear Chairman Graham and Ranking Member Feinstein,

As Attorneys General, it is our responsibility to protect the interests of the residents of our states. Notably, it is the role of the Attorney General to help maintain a stable legal and regulatory environment. It is tragic that the COVID-19 pandemic has caused widespread loss of life, and it is also tragic that people have lost their jobs, been forced to shut down their businesses and had to completely abandon traditional activities in their daily lives and places of work. To avoid even greater damage to our economy and people's lives, it is important that we are able to restart our free enterprise system, safely and appropriately.

As we reopen our economies, the need for a stable, predictable legal environment has never been greater. The COVID-19 pandemic is likely to create a surge in civil litigation targeting well-intentioned businesses for taking pandemic mitigation measures; therefore, this country is in need of a common-sense framework to provide liability protections for much-needed goods and services while still ensuring victims are able to seek legal redress and compensation where appropriate.

On the one hand, our economy will only recover if customers and employees have the confidence to return to the marketplace, and, on the other, businesses need clearly defined expectations for the safe and appropriate continuance of operations while being protected from devastating civil liability litigation concerning baseless COVID-related claims.

States across the country have recognized the need for timely, targeted and tailored civil liability protections in light of the pandemic - to date 23 states have enacted liability protections for first responders and healthcare workers. In the wake of this unprecedented crisis, the extension of appropriate post-pandemic liability protections is needed at both the state and federal levels for businesses, manufacturers of personal protective equipment, first responders, healthcare workers, healthcare facilities, and members of law enforcement, among others.

The undersigned state Attorneys General, representing 21 states, are joining together to urge Congress, with insight and assistance from groups like the U.S. Chamber of Commerce (and its Institute for Legal Reform) and the President's Congressional Economic Task Force, to enact specific liability protections that help mitigate the threat of frivolous COVID-related litigation and address pandemic protections that are not currently covered in federal law, such as the SAFETY Act and PREP Act. Civil liability protections should not, however, be extended to businesses engaging in willful misconduct, reckless infliction of harm or intentional infliction of harm. We believe criminal penalties, regulatory fines and agency oversight should be able to capture bad actors and civil lawsuits should be available for any citizens hurt by a business or individual acting with disregard for safety during the COVID-19 pandemic.

In doing so, we request that these federal liability protections set a foundation for states to build upon. Any federal legislation must preserve states' autonomy and ability to add additional state-tailored protections against frivolous litigation, through state legislation and executive order, based on each one's unique circumstances. Additionally, these civil liability protections should be extended to all businesses and non-profit organizations, without regard to size or for-profit or not-for-profit status, that work in good faith to comply with guidance provided by government authorities and consistent with industry best practices as our states move to restart their economies.

We are confident your efforts will lead to meaningful results for our states, and we look forward to supporting the implementation of this type of legislation in any way we can.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christopher Carr".

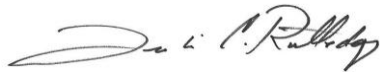
Christopher M. Carr
Georgia Attorney General



Steve Marshall
Alabama Attorney General



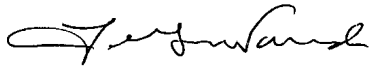
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Indiana Attorney General



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Kansas Attorney General



Daniel Cameron
Kentucky Attorney General



Jeff Landry
Louisiana Attorney General



Lynn Fitch
Mississippi Attorney General



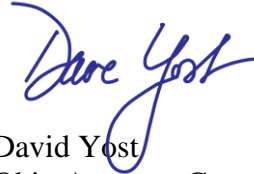
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Nebraska Attorney General



Wayne Stenehjem
North Dakota Attorney General



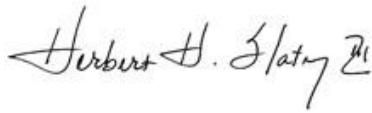
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