

Safe Harbor Reference Points

- Manufacturers have been on the front lines during the crisis, providing Americans with the things our country needs—whether that be medical supplies, PPE, chemicals for cleaning our hands, homes and workplaces, food or pharmaceuticals.
- They have been operating under conditions of incredibly uncertainty, with constantly shifting guidance coming from federal agencies, states and even cities and counties.
- They have done their best to meet the needs of our country while keeping employees safe—if they are not able to make their employees feel safe in the workplace, they won't come to work and manufacturers simply can't operate.
- Unfortunately, these types of crisis situations and uncertainty give rise to the potential for lawsuits. As manufacturers struggle to get through these very difficult economic times, that is a very serious threat to their ability to help move the country back to economic health and even to meet the needs of the country.
- Manufacturers who are doing their best to do the right thing deserve some protection from legal liability in the face of these unprecedented challenges.
- We are seeking targeted liability reforms that will be limited to the current crisis. We are not seeking to protect bad actors and we are not asking for a complete shield from liability.
 - Our proposal focuses on three main areas of liability:
 - Creating rational rules for the critical workplace—to protect those doing their best to keep their workers safe by heightening the standard for bringing a lawsuit against an employer for COVID related injuries and protecting employers who are dealing with medical information through temperature checks and communication about potential exposures from litigation relating to privacy rules.
 - Protecting Good Samaritan manufacturers who have either completely retooled their operations to address the critical shortage of PPE and medical equipment, or those who have donated their own supplies or volunteered in other ways; and
 - Preventing the inappropriate expansion of state tort law--such as public nuisance--to turn the current global pandemic into a state—law “super tort.”