



April 24, 2020

Dear Strike Force member:

Thank you for your leadership in the Strike Force to re-open the Texas economy. The actions by Governor Abbott as a result of the recommendations from this group will have a significant impact on the future of Texas and the men and women that call Texas home. As explained in more detail below, we are asking that you consider protecting Texas businesses from frivolous COVID-19 injury lawsuits by raising the applicable standard of care and requiring an expert report on causation.

The Association for Responsible Alternatives to Workers' Compensation (ARAWC – "A Rock") is proud to support you as you create a plan to get Texans back to work. We are an association of major employers in areas such as retail, restaurants, food service, transportation, hotel and lodging, and healthcare. As one of our primary focuses is on risk management, we felt it imperative to bring liability exposure for these companies to your attention.

As you are aware, more than ever, Texans are relying upon ARAWC member companies for their health and food. Most of our members remain open now to provide critical infrastructure and essential services support to their workforce, their customers and the Texas economy. Almost every major employer, as well thousands of other small businesses, in these key industries sponsor a Texas injury benefit program.

These companies now face unexpected and indeterminate COVID-19 liability exposures that act as a barrier to re-opening or threaten to exacerbate the negative financial and economic impacts already felt, further slow the re-hiring of furloughed employees and new job creation, and undermine their ability to pay medical, lost wage and other workplace safety-related claims.

Our members have outlined two specific recommendations that will help protect Texas employers from the impending waive of frivolous lawsuits that could slow or event prevent businesses from operating going forward. Those two suggestions are:

In order to recover on any negligence or premises liability action related to COVID-19 by an employee, customer or other party against a Texas company:

1. Physical or mental injury or death must have been proximately caused by such company's gross negligence, intentional act, or willful misconduct; and
2. An expert report, as described in section 74.351 of the Texas Civil Practice and Remedies Code, shall be required to show a direct causal relationship between COVID-19 and the alleged injury.



We reached out early to other major employer associations to discuss this issue, and have been working with them to develop real solutions to save and promote business in Texas. For example, the Texans for Lawsuit Reform recently issued a statement echoing these sentiments, asking for liability exposure only for reckless or intentional actions, or gross negligence. We are excited about the progress being made on this front, and while we continue to work with other employer groups, we felt it imperative to inform you of the discussions we are having.

ARAWC has reached out to several members of the strike force to discuss this, and will continue to work with you and answer any questions you have. Thank you again for your service to Texas at this critical time and we look forward to continuing to ensure that Texas remains the best place in America to do business.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Strege". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jeff Strege
President, ARAWC