

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

March 3, 2021

TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: The Office of the Attorney General

RE: HB1106 – Civil Actions – Immunity from Liability – COVID-19 Exposure –
Oppose

House Bill 1106 is Delegate Wivell's legislation to retroactively to March 5, 2020,¹ extinguish liability for COVID-19 exposure claims against owners, lessees, or tenants of a premises "if the owner, lessee, or tenant, or an agent of the owner, lessee, or tenant, acted in good faith to follow and enforce on the premises all federal, state, and local health guidelines applicable at the time of the exposure or alleged exposure."² Finally, the Act has an effective date of October 1, 2021, notwithstanding its provision of retroactivity to March 5, 2020.

We recognize that businesses acting in good faith and complying with evolving health guidelines should not normally be held liable for novel airborne viruses. However, HB 1106 goes too far. It includes a completely unsubstantiated claim that "[b]usiness and premises owners have not historically been required to keep members of the public from being exposed to airborne viruses, *bacteria, and germs . . .*"³ That claim is inaccurate as a matter of law.⁴

For these reasons, the Office of the Attorney General urges an unfavorable report on HB 1106.

cc: Members of the Judiciary Committee

¹ See H.B. 1106, Section 2, 2021 Leg., 422d Sess. (Md. 2021).

² See H.B. 1106 § 5-644(B).

³ See H.B. 1106, at 1:20-21 (emphasis added).

⁴ See, e.g., *Armour & Co. v. Leasure*, 177 Md. 393, 410 (1939) ("One who manufacturers food products for resale and consumption by the public assumes the duty of exercising reasonable care to see that the food is wholesome and free from noxious and deleterious organisms and impurities.") (citations omitted); *Suburban Hosp. Ass'n v. Hadary*, 22 Md. App. 186 (1974) (finding hospital liable because hospital stored both sterile and nonsterile needles in the same cabinet and alleged use of nonsterile needle in performing liver biopsy).