

Legislative Update – November 2020

Coronavirus Resources

Governor DeWine continues to have regular press conferences, though not daily as he did at the beginning of the pandemic. The state posts all of the latest data, health orders and releases on its coronavirus website. The Responsible Restart protocols for businesses are in effect through the state's declared state of emergency. The Governor has also implemented a statewide mask mandate with a few exceptions. In the latest attempts to slow the spread of COVID-19 the Governor has also implemented a general curfew of 10pm and greater responsibility of business to enforce the mask wearing mandate

Legislature Looks to Limit Governor's Authority

The Ohio legislature is teeing up several bills that would limit or prohibit some of the shutdowns and restrictions implement by the Governor in response to the COVID-19 health crisis.

HB 621 - The House passed HB 621 by a vote of 75-11 which is titled the "Business Fairness Act". It basically says that health orders can't close businesses if other businesses are allowed to stay open so long as they follow the safety precautions for those business permitted to continue to stay open. A prime example with this is flower shops. During the initial COVID shut down, flower shops were ordered closed. BUT you could still buy flowers at Walmart that was allowed to remain open, putting those other small businesses at a disadvantage. So, under this bill (if enacted) that small flower shop could stay open if they follow the protocols. This would also apply to rides, food establishment and all other businesses.

SB 311 – This legislation has been passed by both the House and Senate and has been delivered to the Governor. Governor DeWine has already said he will veto the bill. The legislature could pursue a veto override. According to LSC, SB 311:

- Prohibits the Department of Health (ODH) from issuing a general, mandatory statewide or regional quarantine or isolation order that applies to and is enforced against individuals who have not been either directly exposed to or medically diagnosed with the disease that is the subject of the order.
- Allows the General Assembly to adopt a concurrent resolution to rescind certain ODH orders or rules for preventing the spread of contagious or infectious diseases.

SB 375 - Senators Tim Schaffer and Frank Hoagland have introduced Senate Bill 375 that would rescind the fair specific health order limiting fairs to Junior Fair only. The sponsors realize that fairs take much time to plan and want to pass this bill to assist with the 2021 fair season. The Senate made very quick work of the bill. The Senate Agriculture and Natural Resources reported the bill after one hearing on November 17, 2020. In addition to the sponsors, the committee also heard from Rod Arter, OFMA President, about the hardships of the 2020 fair season. SB 375 went on to pass the full Senate the next day by a vote of 23-8.

Liability Protections Signed into Law

Both the House and the Senate made legislation to protect businesses from COVID-19 related lawsuits a priority. House Bill 606, sponsored by Representative Diane Grendell, became the ultimate vehicle for enactment. The Republican legislature had hoped to include an emergency clause to the bill but didn't have enough Democrat support to pass an emergency clause. The legislature to extend the time the protection is effective through September 30, 2021. The Governor signed the bill on September 14, 2020 and it is effect 90 days after signature. Under the law all "persons" are protected from lawsuits for any COVID-19 exposure, transmission, or contraction. Ohio law defines "person" to include an individual, corporation, business trust, estate, trust, partnership, and association.

Tyler's Law Rule Finalized

Under Tyler's law, passed last year, the Ohio Department of Agriculture had to promulgate rules regarding classification of rides, minimum inspects and other details. These rules were drafted in consultation with the Amusement Ride Safety council. A public hearing was held on September 28, 2020. GOSA was the only group to submit comments. GOSA took the opportunity to express support for the rules, but to also highlight the difficult 2020 season. The rules contain the following changes:

901:9-1-01 – Add language requiring a list of locations a ride has been stored outside of Ohio for more than 30 days or operated outside of Ohio. This was required as a part of Tyler's Law.

901:9-1-04 – Adds ASTM references as required by Tyler's Law.

901:9-1-04.1 Fatigue and corrosion review – New rule that creates classifications of rides and specifics for corrosion review for each classification. The classifications are as follows: Low Intensity Rides; Intermediate Rides; Towers; and Roller Coasters.

901:9-1-04.2 Inspection requirements – New rule that creates standards for minimum inspections for each classification of rides.

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