

2021 US Labor & Employment Webinar Week  
**Insights and Compliance Strategies for a New World**

February 1 – 4, 2021



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# Ohio Breakout Session: Positive Developments in the Buckeye State

February 4, 2021

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# Presenters

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The image shows the Ohio Statehouse at dusk. The building is a grand neoclassical structure with a prominent portico supported by tall columns. The interior lights are on, and the sky is a mix of blue and orange. A large teal semi-transparent box is overlaid on the right side of the image, containing white text.

# Ohio Legislative Update

House Bill 352 - *Employment Law Uniformity Act*

House Bill 606 - *Grant Immunity to Essential Workers Who Transmit COVID-19*

# House Bill 352

## Employment Law Uniformity Act

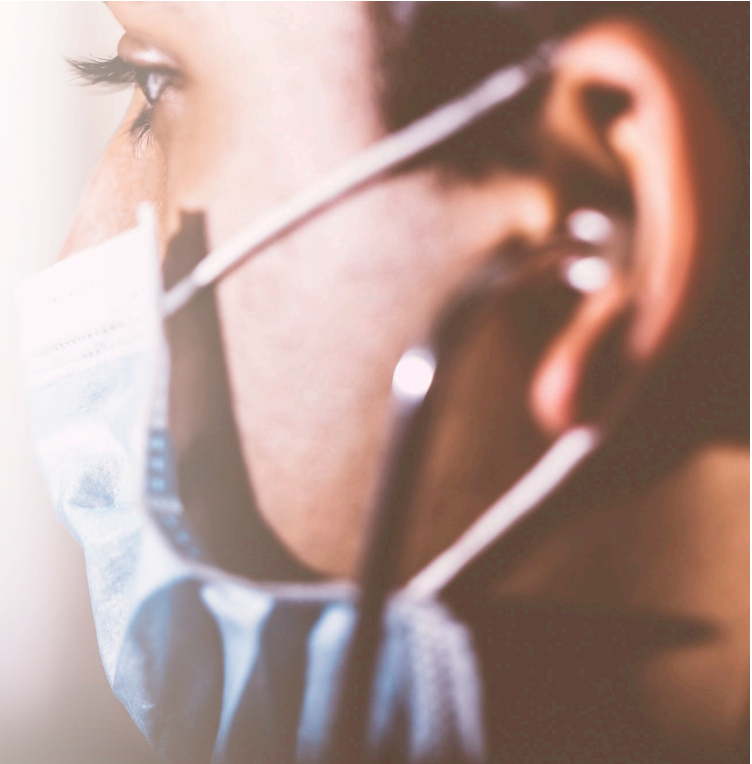
<b>Reduces the Statute of Limitations from 6 years to 2 years</b>	<b>Requires Exhaustion of Administrative Remedies</b>	<b>Limits Personal Liability for Managers &amp; Supervisors</b>
<p>Chapter 4112 did not previously set a statute of limitations</p> <p>The Ohio Supreme Court applied a 6-year limitation period 4112 claim, which was the longest limitation period in the country</p>	<p>Plaintiffs previously could pursue claims in state court, at the Civil Rights Commission (OCRC), or both at the same time</p> <p>Now Plaintiffs must first file with OCRC and then may elect to sue in court after OCRC concludes its investigation</p>	<p>Chapter 4112 was previously silent on supervisor liability</p> <p>The Ohio Supreme Court judicially extended 4112 to include individual liability</p>
<b>Codifies the <i>Faragher-Ellerth</i> Affirmative Defense</b>	<b>Clarifies the Process of Bringing Age Discrimination Claims</b>	<b>Managers &amp; Supervisor Liability</b>
<p>Must show that employer (1) has a policy &amp; complaint procedure; (2) educates employees about them; (3) exercised reasonable care; and (4) employee failed to take advantage of corrective opportunities</p>	<p>Previously, Plaintiffs had 180 days to bring an age claim in court (as opposed to 6 years for all other 4112 claims).</p> <p>If the individual filed suit, he/she waived right to pursue the claim in OCRC.</p>	<p>Managers and Supervisors can still be liable if they acted outside the scope of their employment.</p>

# House Bill 606

## *Grant Immunity to Essential Workers Who Transmit COVID-19*

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- Grants state-law immunity from civil suits for “injury, death, or loss” caused by exposure to or transmission / contraction of COVID-19, unless a Plaintiff can show the Defendant acted with reckless disregard or engaged in intentional, willful, or wanton misconduct.
- Applies to “**persons**,” as that term is defined in R.C. 1.59.
  - “Person” includes an individual, corporation, business trust, estate, trust, partnership, and association.
  - Also includes a school, a for-profit or nonprofit entity, a governmental entity, a religious entity, or a state institution of higher education.
- Shields healthcare providers in tort actions arising from the provision, withholding, or withdrawal of health care services resulting from the coronavirus pandemic unless a Plaintiff can show that the healthcare provider acted with reckless disregard or engaged in intentional, willful, or wanton misconduct.
- Failure to follow Executive Orders can be used to show intentional, willful, or wanton misconduct.



STEVEN SPIELBERG PRESENTS

# BACK TO THE FUTURE

A ROBERT ZEMECKIS FILM



## Retroactive Effect?

### HB 352

- No—retroactivity is not specifically provided in the statute.
- R.C. 1.48 provides that every statute “is presumed to be prospective in its operation unless expressly made retroactive.”
- **Effective Date: April 15, 2021**

### HB 606

- Yes—retroactivity is provided in the statute.
- Even though the bill went into effect on December 16, 2020, it applies retroactively from **March 9, 2020 and sunsets on September 30, 2021.**

Questions? Contact us:



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