



January 12, 2021

Memorandum:

To: Senate Judiciary Committee
From: Thomas M. Palace Executive Director Fuel True
Re: Written Testimony only for Liability Protection for Small Businesses

Madam Chairwomen and Members of the Senate Judiciary Committee:

My name is Tom Palace. I am the Executive Director of Fuel True, formally known as the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 250 independent Kansas petroleum distribution companies and convenience store retailers throughout Kansas.

I offer these comments as support for liability provisions in HB 2016 (session 2020) including protection for Kansas Retailers that remain open with an active virus.

Kansas Retailers have been on the front lines serving customer needs since the start of COVID-19. Retailers need the assurance that they are doing the right thing providing fuel for motorists and food for the customers in every county in the state. Retailers are concerned and need assurance that by staying open serving Kansas customers, that they will not be hit with lawsuits alleging that they should have done something more to protect others from the virus.

Safety precautions such as protective equipment and additional sanitization requirements have been put in place by businesses whose top concern is employee and customer safety. Masks are required to be worn by all employees, hourly cleaning and markers for social distancing have been put in place based on recommendations by local health advisors.

Businesses need to be protected from non-injury COVID related litigation, while still allowing businesses to be held responsible when acting maliciously failing to guard or warn against risk. Liability protection is important for business that have been deemed "essential businesses" from the viral disease that are doing everything in their power to keep people as safe as possible from COVID.

Fuel True seeks a defense for businesses that show that they have operated in compliance with federal or state statute or regulation, Executive Order, or public health guidance applicable to the time of alleged exposure.

If a company is following the proposed guidance and requirements published by the government, this should serve as a proper defense in our view.

I thank you for allowing me to provide comments regarding legislation to provide liability protection for small businesses that serve all Kansans during a pandemic.