

May 21, 2020

Dear Leader McConnell,

On behalf of the highway and building materials industry, we urge the inclusion of broad liability protections in any future legislation related to COVID-19. Without these protections, companies that manufacture and distribute construction materials, equipment and related supplies face the potential of abusive lawsuits at a time when they already confront devastating economic impact.

Foremost, the highway materials and equipment industry is dedicated to the safety of our facilities and the people who work in them. Our membership takes extensive steps to protect our workers at their worksites through strict personal protection equipment practices, thorough plant and quarry design, and rigorous safety procedures. The typical threats faced at worksites are known and can be mitigated with certain safety practices currently being followed by construction material, equipment manufacturers and companies that distribute and supply these products. However, COVID-19 is a new threat to modern society with no equal in the last hundred years. It is a hazard that may occur outside the workplace, which employers cannot mitigate.

The financial difficulties companies that manufacture and distribute construction materials and equipment face could be compounded by litigation related to COVID-19. No company should be in jeopardy if it has followed the state and federal standards and guidance relating to COVID-19, which have changed and been revised numerous times. Liability protections will incentivize businesses to operate in compliance with federal recommendations while allowing for bad actors to be punished, and those harmed, rectified.

Companies that have complied in good faith with federal guidelines should not face the potential for expensive lawsuits that will inevitably lead to additional plants closing, jobs lost, and steeper economic decline. For these reasons, we encourage Congress to provide our member companies with broad liability protection from frivolous legal action.

Finally, as Congress considers how to legislate such protections, it is important to note the unique regulatory differences between sectors. For example, not all businesses entirely fall under the jurisdiction of the Occupational Safety and Health Administration (OSHA). The mining sector's quarries and plants are under the jurisdiction of the Mine Safety and Health Administration (MSHA) and should not be excluded.

Again, thank you for your continued leadership as our country responds to the COVID-19 pandemic. We look forward to working with you to ensure that you have the support necessary to enact critical economic recovery legislation.

Sincerely,

American Coal Ash Association
American Concrete Pavement Association
American Concrete Pipe Association
American Concrete Pressure Pipe Association
American Concrete Pumping Association
American Traffic Safety Service Association
Associated Equipment Distributors
Concrete Foundations Association

Concrete Reinforcing Steel Institute
National Concrete Masonry Association
National Precast Concrete Association
National Ready Mixed Concrete Association
National Stone Sand and Gravel Association
Precast/Prestressed Concrete Institute
Portland Cement Association
Tilt-Up Concrete Association