

## **Illinois GOP lawmakers, business groups call on Pritzker to veto general jurisdiction bill**

In the waning hours of the legislative session, the Illinois General Assembly passed a measure expanding the state's jurisdiction for certain lawsuits against businesses. Illinois Republicans and business organizations are asking Gov. JB Pritzker to veto it.

[Senate Bill 328](#) says that if a company is registered or otherwise does business in the state, then lawsuits alleging harm caused by the company can be filed in Illinois, regardless of if the incident occurred in the state or not.

That would mean the incident could occur in another state, and the lawsuit could still be filed in Illinois.

The legislation would apply to lawsuits regarding toxic substances. Under Illinois statute, toxic is defined as “any substance (other than a radioactive substance) which has the capacity to produce bodily injury or illness to man through ingestion, inhalation or absorption through any surface.”

The measure was backed by the Illinois Secretary of State, the Illinois Environmental Council and the Illinois Trial Lawyers Association, who dubbed the bill a “significant step to protect workers and consumers from exposure to toxic substances.”

The association said the legislation would apply to cases of injury or illness and would require multiple defendants with at least one being subject to Illinois' current jurisdiction laws, which typically require a business to be headquartered or incorporated within the state.

A statement from the association said the goal of the legislation is to ensure companies are held accountable and that consumers remain protected.

“At a time when the Trump Administration and Republican-controlled Congress are gutting environmental, patient, worker and consumer protections, it is vital that states step up to fill the federal government's vacuum,” the statement said.

Mark Denzler, president and CEO of the Illinois Manufacturers' Association (IMA), said the measure would negatively impact economic development in the state by turning businesses away. He said they also believe it's likely the measure could be found to be unconstitutional.

“This is going to create a black eye for Illinois when it comes to economic development,” he said. “If this were to be signed into law, Illinois would be one of only two states in the nation with general jurisdiction, which means, in practical effect, any company that simply registered to do business in the state of Illinois can be sued in Illinois.”

Pennsylvania has a law which states that any business registering in the state consents to general jurisdiction law, meaning they can be sued. This law was put into effect when a former employee of Norfolk Southern Railway Company sued in Pennsylvania, alleging occupational exposure caused his colon cancer. The employee worked at Norfolk locations in Virginia and Ohio, not Pennsylvania.

The Pennsylvania Supreme Court ruled the law unconstitutional in the case, but the decision was later overturned by the U.S. Supreme Court. Justice Samuel Alito wrote an opinion partially concurring with the court judgement, but suggested companies may still have an avenue for litigation through the dormant Commerce Clause, which the court did not address.

The clause is used to prohibit state legislation that discriminates against or unduly burdens interstate commerce. The Supreme Court ruled on due process but not this clause, which Alito said would open the door for Norfolk to renew their challenge.

“We think it makes sense to wait, to let the Supreme Court rule on the dormancy clause before Illinois takes this step that would make us an outlier,” Denzler said.

While the bill is limited to toxic substances, Denzler said the definition of toxic is broad. He said this has sparked concerns from a wide range of manufacturers who feel they could be included under this measure.

Denzler also said they are also concerned the litigation could overwhelm Illinois’ courts.

“We don't want Illinois to become America's courtroom,” he said. “We don't want litigation tourism.”

It’s for that reason, as well as concerns for economic development, that New York Gov. Kathy Hochul vetoed legislation to expand New York’s jurisdiction law.

Illinois Senate and House Republican leaders held a press conference Wednesday calling on Pritzker to veto SB 328.

“This would discourage, rather than encourage, businesses to register in the state of Illinois to do business here, and, more importantly, to invest in Illinois,” said Senate Republican Leader John Curran (R-Lemont). “It is literally no benefit to anyone in our state, other than those trying to make money off of frivolous lawsuits.”

Beyond concerns about the specific legislation, lawmakers and Denzler raised concerns about the timeframe in which the measure was passed, which they say prevented debate and discussion on the measure.

Denzler said they were able to speak to a House committee to voice their concerns, but did not have the opportunity to meet with fellow stakeholders to discuss the measure.

The IMA and other business groups have also called on Pritzker to veto the measure. Denzler said they have a meeting scheduled next week with the governor's office to discuss their concerns.