

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1487

5 By: Representative Gonzales
6 By: Senator Gilmore
7

For An Act To Be Entitled

9 AN ACT CONCERNING BUSINESS LIABILITY FOR A PERSON
10 EXPOSED TO CORONAVIRUS 2019 (COVID-19); TO DECLARE AN
11 EMERGENCY; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 CONCERNING BUSINESS LIABILITY FOR A
16 PERSON EXPOSED TO CORONAVIRUS 2019
17 (COVID-19); AND TO DECLARE AN EMERGENCY.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 16, Chapter 120, is amended to add an
23 additional subchapter to read as follows:
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Subchapter 11 – Coronavirus 2019 (COVID-19) Tort Immunity

16-120-1101. Purpose.

28 The purpose of this subchapter is to protect businesses that open or
29 remain open while COVID-19 is being spread in the community.
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16-120-1102. Definitions.

32 As used in this subchapter:

33 (1) "COVID-19" means the acute respiratory syndrome coronavirus
34 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19) or any other disease,
35 health condition, or threat caused by severe acute respiratory syndrome
36 coronavirus 2 (SARS-CoV-2) or by any virus mutating from severe acute



1 respiratory syndrome coronavirus 2 (SARS-CoV-2);

2 (2) "Person" means an individual, entity, organization, group,
 3 association, partnership, business, institution of learning, commercial
 4 concern, corporation, or company, whether for profit or not for profit; and

5 (3) "Premises" means real property and any building or structure
 6 appurtenant to real property.

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 8 16-120-1103. Liability immunity.

9 A person or a person's employee, agent, or officer is immune from civil
 10 liability for damages or injuries caused by or resulting from exposure of an
 11 individual to COVID-19 on business premises owned or operated by the person
 12 or during an activity managed by the person.

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 14 16-120-1104. Scope.

15 The immunity from civil liability under this subchapter:

16 (1) Is in addition to any other immunity provided by state or
 17 federal law; and

18 (2) Applies to a claim brought:

19 (A) In state or federal court; or

20 (B) Before the Arkansas State Claims Commission.

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 22 16-120-1105. Exceptions.

23 The immunity from civil liability under this subchapter does not apply
 24 to:

25 (1) Willful, reckless, or intentional misconduct resulting in
 26 injury or damages to another person; or

27 (2) Workers' compensation benefits paid by or on behalf of an
 28 employer to an employee under the Workers' Compensation Law, § 11-9-101 et
 29 seq., or a comparable workers' compensation law of another jurisdiction.

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 31 16-120-1106. Presumption.

32 It is presumed that a person or a person's employee, agent, or officer
 33 is not committing willful, reckless, or intentional misconduct under this
 34 subchapter if the person or the person's employee, agent, or officer is:

35 (1) Substantially complying with health and safety directives or
 36 guidelines issued by the Governor, the Secretary of the Department of Health,

1 the Centers for Disease Control and Prevention, and the Centers for Medicare
 2 & Medicaid Services concerning COVID-19; or

3 (2) Acting in good faith while attempting to comply with health
 4 and safety directives or guidelines issued by the Governor or the secretary
 5 concerning COVID-19.

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 7 SECTION 2. DO NOT CODIFY. Temporary legislation.
 8 This act expires on May 1, 2023.

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 10 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 11 General Assembly of the State of Arkansas that coronavirus 2019 (COVID-19)
 12 continues to spread within the State of Arkansas and adjoining states,
 13 threatening the public safety of the citizens of Arkansas, and it is expected
 14 that the spread will continue; that Arkansas business owners are fearful of
 15 opening their businesses or of keeping businesses open during the coronavirus
 16 2019 (COVID-19) outbreak because of the threat of litigation arising from the
 17 alleged exposure to coronavirus 2019 (COVID-19) on their premises or during
 18 activities that they manage; and that this act is immediately necessary
 19 because it is essential to the economic and financial stability of the State
 20 of Arkansas during this emergency for businesses in the state to reopen or to
 21 remain open to provide goods and services to the people of Arkansas without
 22 the threat of civil liability related to coronavirus 2019 (COVID-19).
 23 Therefore, an emergency is declared to exist, and this act being immediately
 24 necessary for the preservation of the public peace, health, and safety shall
 25 become effective on:

26 (1) The date of its approval by the Governor;

27 (2) If the bill is neither approved nor vetoed by the Governor,
 28 the expiration of the period of time during which the Governor may veto the
 29 bill; or

30 (3) If the bill is vetoed by the Governor and the veto is
 31 overridden, the date the last house overrides the veto.

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 34 APPROVED: 4/5/21