A Bill

For An Act To Be Entitled
AN ACT CONCERNING BUSINESS LIABILITY FOR A PERSON EXPOSED TO CORONAVIRUS 2019 (COVID-19); TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle
CONCERNING BUSINESS LIABILITY FOR A PERSON EXPOSED TO CORONAVIRUS 2019 (COVID-19); AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16, Chapter 120, is amended to add an additional subchapter to read as follows:

Subchapter 11 — Coronavirus 2019 (COVID-19) Tort Immunity

16-120-1101. Purpose.
The purpose of this subchapter is to protect businesses that open or remain open while COVID-19 is being spread in the community.

16-120-1102. Definitions.
As used in this subchapter:
(1) "COVID-19" means the acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19) or any other disease, health condition, or threat caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) or by any virus mutating from severe acute
respiratory syndrome coronavirus 2 (SARS-CoV-2);

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

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

16-120-1103. Liability immunity.
A person or a person’s employee, agent, or officer is immune from civil liability for damages or injuries caused by or resulting from exposure of an individual to COVID-19 on business premises owned or operated by the person or during an activity managed by the person.

16-120-1104. Scope.
The immunity from civil liability under this subchapter:

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

(2) Applies to a claim brought:

(A) In state or federal court; or

(B) Before the Arkansas State Claims Commission.

16-120-1105. Exceptions.
The immunity from civil liability under this subchapter does not apply to:

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

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

16-120-1106. Presumption.
It is presumed that a person or a person’s employee, agent, or officer is not committing willful, reckless, or intentional misconduct under this subchapter if the person or the person’s employee, agent, or officer is:

(1) Substantially complying with health and safety directives or guidelines issued by the Governor, the Secretary of the Department of Health,
the Centers for Disease Control and Prevention, and the Centers for Medicare
& Medicaid Services concerning COVID-19; or

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

SECTION 2. DO NOT CODIFY. Temporary legislation.

This act expires on May 1, 2023.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that coronavirus 2019 (COVID-19)
continues to spread within the State of Arkansas and adjoining states,
threatening the public safety of the citizens of Arkansas, and it is expected
that the spread will continue; that Arkansas business owners are fearful of
opening their businesses or of keeping businesses open during the coronavirus
2019 (COVID-19) outbreak because of the threat of litigation arising from the
alleged exposure to coronavirus 2019 (COVID-19) on their premises or during
activities that they manage; and that this act is immediately necessary
because it is essential to the economic and financial stability of the State
of Arkansas during this emergency for businesses in the state to reopen or to
remain open to provide goods and services to the people of Arkansas without
the threat of civil liability related to coronavirus 2019 (COVID-19).

Therefore, an emergency is declared to exist, and this act being immediately
necessary for the preservation of the public peace, health, and safety shall
become effective on:

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

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

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

APPROVED: 4/5/21