

116TH CONGRESS
2D SESSION

H. R. 7528

To limit the civil liability of persons for the spread or possible transmission of SARS–COV–2 caused by an act or omission while acting in good faith during the COVID–19 emergency period, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2020

Mr. GRAVES of Louisiana (for himself, Mr. CUELLAR, Mr. CARTER of Texas, Mr. PETERSON, Mr. BARR, and Mr. HICE of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To limit the civil liability of persons for the spread or possible transmission of SARS–COV–2 caused by an act or omission while acting in good faith during the COVID–19 emergency period, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Get America Back to
5 Work Act”.

1 **SEC. 2. LIMITATION ON LIABILITY.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (c), no person shall be liable in any civil action for the
4 spread or possible transmission of SARS–COV–2 caused
5 by an act or omission of the person acting in good faith
6 between January 1, 2020, and the date that is 18 months
7 after the end of the emergency period (as defined in sec-
8 tion 1135(g)(1)(B) of the Social Security Act (42 U.S.C.
9 1320b–5(g)(1)(B))).

10 (b) PREEMPTION.—The laws of a State or any polit-
11 ical subdivision of a State are hereby preempted to the
12 extent such laws are inconsistent with this section, unless
13 such laws provide greater protection from liability.

14 (c) EXCEPTIONS.—Subsection (a) does not apply if
15 the harm is shown, by clear and convincing evidence, to
16 be caused by an act or omission constituting willful or
17 criminal misconduct, reckless misconduct, gross neg-
18 ligence, or a conscious flagrant indifference to the rights
19 or safety of the individual harmed by the person. For pur-
20 poses of this section, infection with SARS–COV–2 may
21 not be the basis for damages arising from bodily injury
22 except to the extent that such injury is serious bodily in-
23 jury.

24 (d) DEFINITIONS.—In this section:

25 (1) PERSON.—The term “person” includes—

1 (A) one or more individuals, business
2 trusts, legal representatives, corporations, com-
3 panies, associations, firms, partnerships, soci-
4 eties, joint stock companies, universities,
5 schools, nonprofit organizations, or religious or-
6 ganizations; or

7 (B) any organized group of entities de-
8 scribed in subparagraph (A).

9 (2) GOOD FAITH.—The term “good faith”
10 means making reasonable efforts to act in compli-
11 ance with—

12 (A) applicable guidance from a Federal,
13 State, local, territorial, or Tribal public health
14 authority; or

15 (B) appropriate professional or industry
16 standards, recommendations, or guidance.

17 (3) SERIOUS BODILY INJURY.—The term “seri-
18 ous bodily injury” means—

19 (A) death or injury requiring in-patient
20 hospitalization of at least 48 hours;

21 (B) permanent impairment of a bodily
22 function; or

23 (C) permanent damage to a body struc-
24 ture.

1 (e) APPLICABILITY.—The limitation in this section
2 shall be applicable in cases filed before, on, or after the
3 date of enactment of this Act.

4 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion may be construed as superseding or weakening any
6 Federal statute or other provision of Federal law that pre-
7 empts the authority or actions of a State, territory, a polit-
8 ical subdivision of a State or territory, or an Indian Tribe
9 to regulate the practices or services of certain businesses
10 or industries.

11 **SEC. 3. LIMITATION ON LIABILITY FOR HEALTH CARE PRO-**
12 **FESSIONALS DURING COVID-19 EMERGENCY**
13 **RESPONSE.**

14 (a) LIMITATION ON LIABILITY.—Except as provided
15 in subsection (b), a provider of health care services, includ-
16 ing a health care professional, shall not be liable under
17 Federal or State law for the spread or possible trans-
18 mission of SARS-COV-2 caused by an act or omission
19 of the provider in the provision of health care services act-
20 ing in good faith between January 1, 2020, and the date
21 that is 18 months after the end of the emergency period
22 (as defined in section 1135(g)(1)(B) of the Social Security
23 Act (42 U.S.C. 1320b-5(g)(1)(B))), if—

1 (1) the provider is providing health care serv-
2 ices significantly impacted by, or in response to, the
3 COVID–19 pandemic; and

4 (2) the act or omission—

5 (A) occurs in the course of providing
6 health care services that are within the scope of
7 the license, registration, or certification of the
8 professional, as defined by the State of licen-
9 sure, registration, or certification;

10 (B) does not exceed the scope of license,
11 registration, or certification of a substantially
12 similar health professional in the State in which
13 such act or omission occurs; and

14 (C) is undertaken in a good faith belief
15 that the individual being treated is in need of
16 health care services.

17 (b) EXCEPTIONS.—Subsection (a) does not apply if—

18 (1) the harm is shown, by clear and convincing
19 evidence, to be caused by an act or omission of the
20 provider of health care services constituting willful
21 or criminal misconduct, reckless misconduct, gross
22 negligence, or a conscious flagrant indifference to
23 the rights or safety of the individual harmed by the
24 health care professional; or

1 (2) the provider of health care services rendered
2 the health care services under the influence (as de-
3 termined pursuant to applicable State law) of alcohol
4 or an intoxicating drug.

5 (c) PREEMPTION.—The laws of a State or any polit-
6 ical subdivision of a State are hereby preempted to the
7 extent such laws are inconsistent with this section, unless
8 such laws provide greater protection from liability.

9 (d) DEFINITIONS.—In this section—

10 (1) The term “good faith” means making rea-
11 sonable efforts to act in compliance with—

12 (A) applicable guidance from a Federal,
13 State, local, territorial, or Tribal public health
14 authority; or

15 (B) appropriate professional or industry
16 standards, recommendations, or guidance.

17 (2) The term “health care professional” means
18 an individual who is licensed, registered, certified, or
19 otherwise authorized under a Federal or State law
20 to provide health care services.

21 (3) The term “health care services” means any
22 service provided by a health care professional, or by
23 any individual working under the supervision of a
24 health care professional, that relates to the diag-
25 nosis, prevention, or treatment of COVID–19.

1 **SEC. 4. OCCUPATIONAL SAFETY OR HEALTH HAZARD EX-**
2 **EMPTION.**

3 The Occupational Safety and Health Act of 1970 (29
4 U.S.C. 651 et seq.) is amended—

5 (1) in section 9 (29 U.S.C. 658)—

6 (A) subsection (a), by striking “If, upon
7 inspection” and inserting “Except as provided
8 in subsection (d), if, upon inspection”; and

9 (B) by adding at the end the following new
10 subsection:

11 “(d) COVID-19 EXEMPTION.—

12 “(1) IN GENERAL.—For the period specified in
13 paragraph (3), the Secretary may not exercise au-
14 thority pursuant to subsection (a) to issue a citation
15 with respect to a violation related to the spread or
16 possible transmission of SARS-COV-2 in the work-
17 place if the Secretary determines that the employer
18 acted in good faith.

19 “(2) GOOD FAITH DEFINED.—The term ‘good
20 faith’ has the meaning given such term in section
21 2(d) of the Get America Back to Work Act.

22 “(3) PERIOD SPECIFIED.—The period specified
23 in this paragraph is the period beginning on Janu-
24 ary 1, 2020, and ending on the date that is 18
25 months after the end of the emergency period (as

1 defined in section 1135(g)(1)(B) of the Social Secu-
2 rity Act (42 U.S.C. 1320b–5(g)(1)(B))).”; and

3 (2) in section 17 (29 U.S.C. 666)—

4 (A) in subsection (a), by striking “Any em-
5 ployer who willfully” and inserting “Except as
6 provided in subsection (m), any employer who
7 willfully”;

8 (B) in subsection (e), by striking “Any em-
9 ployer who willfully” and inserting “Except as
10 provided in subsection (m), any employer who
11 willfully”; and

12 (C) by adding at the end the following new
13 subsection:

14 “(m) COVID–19 EXEMPTION.—For the period speci-
15 fied in section 9(d)(3), with respect to the spread or pos-
16 sible transmission of SARS–COV–2 in the workplace, no
17 employer who acted in good faith (as defined in section
18 2(d) of the Get America Back to Work Act) shall be sub-
19 ject to penalties under subsection (a) or subsection (e).”.

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