

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 17

By: Senator D. Sullivan
By: Representative Gonzales

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 coronavirus 2019 (COVID-19) or the virus that causes coronavirus 2019 (COVID-19);

(2) "Person" means an individual, entity, organization, group, association, partnership, business, institution of learning, commercial



concern, corporation, or company; 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 a business 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 or the Secretary of the Department of Health 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. 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.