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(Original Signature of Member)

116TH CONGRESS  
2D SESSION

# H. R.

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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.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. GRAVES of Louisiana (for himself and Mr. CUELLAR) introduced the following bill; which was referred to the Committee on

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## 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).”.