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

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

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SEC. 2. LIMITATION ON LIABILITY.

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

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

(c) EXCEPTIONS.—Subsection (a) does not apply if the harm is shown, by clear and convincing evidence, to be caused by an act or omission constituting willful or criminal misconduct, reckless misconduct, gross negligence, or a conscious flagrant indifference to the rights or safety of the individual harmed by the person. For purposes of this section, infection with SARS–COV–2 may not be the basis for damages arising from bodily injury except to the extent that such injury is serious bodily injury.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term “person” includes—
(A) one or more individuals, business
trusts, legal representatives, corporations, com-
panies, associations, firms, partnerships, soci-
eties, joint stock companies, universities,
schools, nonprofit organizations, or religious or-
ganizations; or

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

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

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

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

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

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

(B) permanent impairment of a bodily
function; or

(C) permanent damage to a body struc-
ture.
(e) **Applicability.**—The limitation in this section shall be applicable in cases filed before, on, or after the date of enactment of this Act.

(f) **Rule of Construction.**—Nothing in this section may be construed as superseding or weakening any Federal statute or other provision of Federal law that preempts the authority or actions of a State, territory, a political subdivision of a State or territory, or an Indian Tribe to regulate the practices or services of certain businesses or industries.

**SEC. 3. LIMITATION ON LIABILITY FOR HEALTH CARE PROFESSIONALS DURING COVID–19 EMERGENCY RESPONSE.**

(a) **Limitation on Liability.**—Except as provided in subsection (b), a provider of health care services, including a health care professional, shall not be liable under Federal or State law for the spread or possible transmission of SARS–COV–2 caused by an act or omission of the provider in the provision of health care services acting in good faith between January 1, 2020, and the date that is 18 months after the end of the emergency period (as defined in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b-5(g)(1)(B)), if—
(1) the provider is providing health care services significantly impacted by, or in response to, the COVID–19 pandemic; and

(2) the act or omission—

(A) occurs in the course of providing health care services that are within the scope of the license, registration, or certification of the professional, as defined by the State of license, registration, or certification;

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

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

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

(1) the harm is shown, by clear and convincing evidence, to be caused by an act or omission of the provider of health care services constituting willful or criminal misconduct, reckless misconduct, gross negligence, or a conscious flagrant indifference to the rights or safety of the individual harmed by the health care professional; or
(2) the provider of health care services rendered
the health care services under the influence (as de-
termined pursuant to applicable State law) of alcohol
or an intoxicating drug.

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

(d) DEFINITIONS.—In this section—

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

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

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

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

(3) The term “health care services” means any
service provided by a health care professional, or by
any individual working under the supervision of a
health care professional, that relates to the diag-
nosis, prevention, or treatment of COVID–19.
SEC. 4. OCCUPATIONAL SAFETY OR HEALTH HAZARD EXEMPTION.

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

(1) in section 9 (29 U.S.C. 658)—

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

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

“(d) COVID–19 EXEMPTION.—

“(1) IN GENERAL.—For the period specified in paragraph (3), the Secretary may not exercise authority pursuant to subsection (a) to issue a citation with respect to a violation related to the spread or possible transmission of SARS–COV–2 in the workplace if the Secretary determines that the employer acted in good faith.

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

“(3) PERIOD SPECIFIED.—The period specified in this paragraph is the period beginning on January 1, 2020, and ending on the date that is 18 months after the end of the emergency period (as...
defined in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).”;

(2) in section 17 (29 U.S.C. 666)—

(A) in subsection (a), by striking “Any employer who willfully” and inserting “Except as provided in subsection (m), any employer who willfully”;

(B) in subsection (e), by striking “Any employer who willfully” and inserting “Except as provided in subsection (m), any employer who willfully”;

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

“(m) COVID–19 EXEMPTION.—For the period specified in section 9(d)(3), with respect to the spread or possible transmission of SARS–COV–2 in the workplace, no employer who acted in good faith (as defined in section 2(d) of the Get America Back to Work Act) shall be subject to penalties under subsection (a) or subsection (e).”.