

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

SENATE BILL 17

5 By: Senator D. Sullivan  
6 By: Representative Gonzales  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING BUSINESS LIABILITY FOR A PERSON  
10 EXPOSED TO CORONAVIRUS 2019 (COVID-19); TO DECLARE AN  
11 EMERGENCY; AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

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

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 16, Chapter 120, is amended to add an  
23 additional subchapter to read as follows:  
24

### Subchapter 11 – Coronavirus 2019 (COVID-19) Tort Immunity

#### 16-120-1101. Purpose.

28 The purpose of this subchapter is to protect businesses that open or  
29 remain open while COVID-19 is being spread in the community.  
30

#### 16-120-1102. Definitions.

##### As used in this subchapter:

33 (1) "COVID-19" means coronavirus 2019 (COVID-19) or the virus  
34 that causes coronavirus 2019 (COVID-19);

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



1 concern, corporation, or company; and

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

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5 16-120-1103. Liability immunity.

6 A person or a person's employee, agent, or officer is immune from civil  
7 liability for damages or injuries caused by or resulting from exposure of an  
8 individual to COVID-19 on business premises owned or operated by the person  
9 or during a business activity managed by the person.

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11 16-120-1104. Scope.

12 The immunity from civil liability under this subchapter:

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

15 (2) Applies to a claim brought:

16 (A) In state or federal court; or

17 (B) Before the Arkansas State Claims Commission.

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19 16-120-1105. Exceptions.

20 The immunity from civil liability under this subchapter does not apply  
21 to:

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

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

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28 16-120-1106. Presumption.

29 It is presumed that a person or a person's employee, agent, or officer  
30 is not committing willful, reckless, or intentional misconduct under this  
31 subchapter if the person or the person's employee, agent, or officer is:

32 (1) Substantially complying with health and safety directives or  
33 guidelines issued by the Governor or the Secretary of the Department of  
34 Health concerning COVID-19; or

35 (2) Acting in good faith while attempting to comply with health  
36 and safety directives or guidelines issued by the Governor or the secretary

1 concerning COVID-19.

2  
3 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
4 General Assembly of the State of Arkansas that coronavirus 2019 (COVID-19)  
5 continues to spread within the State of Arkansas and adjoining states,  
6 threatening the public safety of the citizens of Arkansas, and it is expected  
7 that the spread will continue; that Arkansas business owners are fearful of  
8 opening their businesses or of keeping businesses open during the coronavirus  
9 2019 (COVID-19) outbreak because of the threat of litigation arising from the  
10 alleged exposure to coronavirus 2019 (COVID-19) on their premises or during  
11 activities that they manage; and that this act is immediately necessary  
12 because it is essential to the economic and financial stability of the State  
13 of Arkansas during this emergency for businesses in the state to reopen or to  
14 remain open to provide goods and services to the people of Arkansas without  
15 the threat of civil liability related to coronavirus 2019 (COVID-19).  
16 Therefore, an emergency is declared to exist, and this act being immediately  
17 necessary for the preservation of the public peace, health, and safety shall  
18 become effective on:

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

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

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