



January 15, 2021

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## SENATE BILL No. 1

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DIGEST OF SB 1 (Updated January 13, 2021 3:19 pm - DI 123)

**Citations Affected:** IC 34-6; IC 34-30.

**Synopsis:** Civil immunity related to COVID-19. Provides civil immunity for damages resulting from exposure of an individual to COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person. Defines "COVID-19 protective product" and provides civil immunity for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts). Limits specified immunities to tort actions. Exempts fraud and intentionally tortious acts from specified immunities.

**Effective:** Upon passage; March 1, 2020 (retroactive).

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**Messmer, Koch, Brown L, Zay,  
Becker, Buchanan, Rogers, Houchin,  
Kruse**

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January 4, 2021, read first time and referred to Committee on Judiciary.  
January 14, 2021, amended, reported favorably — Do Pass.

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SB 1—LS 6801/DI 92





January 15, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

## SENATE BILL No. 1

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 34-6-2-31.4 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 31.4. (a) "COVID-19", for purposes of**  
4 **IC 34-30-32, has the meaning set forth in IC 34-30-32-2.**  
5 **(b) "COVID-19", for purposes of IC 34-30-33, has the meaning**  
6 **set forth in IC 34-30-33-2.**  
7 SECTION 2. IC 34-6-2-31.5 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]: **Sec. 31.5. "COVID-19 protective product", for**  
10 **purposes of IC 34-30-33, has the meaning set forth in**  
11 **IC 34-30-33-2.**  
12 SECTION 3. IC 34-6-2-77.1 IS ADDED TO THE INDIANA CODE  
13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
14 UPON PASSAGE]: **Sec. 77.1. "Manufacturer or supplier", for**  
15 **purposes of IC 34-30-33, has the meaning set forth in**  
16 **IC 34-30-33-2.**  
17 SECTION 4. IC 34-30-32 IS ADDED TO THE INDIANA CODE

SB 1—LS 6801/DI 92



1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
2 MARCH 1, 2020 (RETROACTIVE)]:

3 **Chapter 32. Immunity Related to COVID-19**

4 **Sec. 1. This chapter applies only to a tort action.**

5 **Sec. 2. As used in this chapter, "COVID-19" means:**

6 (1) severe acute respiratory syndrome coronavirus 2 or a  
7 mutated form of severe acute respiratory syndrome  
8 coronavirus 2; or

9 (2) the disease caused by severe acute respiratory syndrome  
10 coronavirus 2 or a mutated form of severe acute respiratory  
11 syndrome coronavirus 2.

12 **Sec. 3. As used in this chapter, "person" means:**

13 (1) an individual;

14 (2) an association;

15 (3) an institution;

16 (4) a corporation;

17 (5) a company;

18 (6) a trust;

19 (7) a limited liability company;

20 (8) a partnership;

21 (9) a political subdivision;

22 (10) a government office, department, division, bureau, or  
23 other body of government; or

24 (11) any other organization or entity.

25 **Sec. 4. As used in this chapter, "premises" means real property  
26 and any appurtenant building or structure.**

27 **Sec. 5. Subject to the other provisions of this chapter, a person  
28 is immune from civil tort liability for damages resulting from  
29 exposure of an individual to COVID-19:**

30 (1) on the premises owned or operated by the person;

31 (2) on any premises on which the person or an employee or  
32 agent of the person provided property or services to the  
33 individual; or

34 (3) during an activity managed, organized, or sponsored by  
35 the person.

36 **Sec. 6. This chapter does not grant immunity from civil tort  
37 liability to a person whose actions or omissions constitute gross  
38 negligence or willful or wanton misconduct (including fraud and  
39 intentionally tortious acts) as proven by clear and convincing  
40 evidence.**

41 **Sec. 7. (a) This chapter supplements and is in addition to:**

42 (1) IC 34-13-3 (Indiana Tort Claims Act); and



1           (2) IC 34-18 (Indiana Medical Malpractice Act).  
2       (b) This chapter does not apply to:  
3           (1) IC 22-3-2 (Worker's Compensation);  
4           (2) IC 22-3-7 (Worker's Occupational Diseases  
5            Compensation);  
6           (3) IC 22-8 (Occupational Health and Safety); or  
7           (4) IC 22-4 (Unemployment Compensation).  
8       Sec. 8. The civil tort immunity provided in this chapter is in  
9       addition to any other immunity protection that may apply under  
10       state or federal law.  
11       Sec. 9. This chapter expires December 31, 2024.  
12       SECTION 5. IC 34-30-33 IS ADDED TO THE INDIANA CODE  
13       AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
14       UPON PASSAGE]:  
15       **Chapter 33. COVID-19 Related Products Liability**  
16       **Sec. 1. This chapter only applies to a tort action.**  
17       **Sec. 2. The following definitions apply throughout this chapter:**  
18           (1) "COVID-19" means:  
19               (A) severe acute respiratory syndrome coronavirus 2 or a  
20               mutated form of severe acute respiratory syndrome  
21               coronavirus 2; or  
22               (B) the disease caused by severe acute respiratory  
23               syndrome coronavirus 2 or a mutated form of severe acute  
24               respiratory syndrome coronavirus 2.  
25           (2) "COVID-19 protective product" means one (1) or more of  
26       the following:  
27               (A) Personal protective equipment.  
28               (B) Medical devices, equipment, and supplies used to treat  
29               COVID-19, including medical devices, equipment, or  
30               supplies that are used or modified for an unapproved use  
31               to treat COVID-19 or to prevent the spread of COVID-19.  
32               (C) Medical devices, equipment, and supplies used outside  
33               of their normal use to treat COVID-19 or to prevent the  
34               spread of COVID-19.  
35               (D) Medications used to treat COVID-19, including  
36               medications prescribed or dispensed for off label use to  
37               attempt to treat COVID-19.  
38               (E) Tests, as approved by the federal Food and Drug  
39               Administration, to diagnose or determine immunity or  
40               exposure to COVID-19.  
41               (F) A product designed to clean or disinfect to prevent the  
42               spread of COVID-19.



1           (G) Any component of an item described in this  
2           subdivision.

3           (3) "Manufacturer or supplier" means a person who designs,  
4           manufactures, labels, sells, distributes, or donates a  
5           COVID-19 protective product.

6           Sec. 3. This chapter applies to a cause of action that accrues on  
7           or after March 1, 2020.

8           Sec. 4. Except as provided in section 5 or 6 of this chapter, a  
9           manufacturer or supplier is immune from civil tort liability for  
10          harm that results from the design, manufacture, labeling, sale,  
11          distribution, or donation of a COVID-19 protective product.

12          Sec. 5. The immunity from civil tort liability provided in section  
13          4 of this chapter does not apply to an act or omission that  
14          constitutes gross negligence or willful or wanton misconduct  
15          (including fraud and intentionally tortious acts) as proven by clear  
16          and convincing evidence.

17          Sec. 6. (a) This chapter supplements and is in addition to:

18               (1) IC 34-13-3 (Indiana Tort Claims Act); and

19               (2) IC 34-18 (Indiana Medical Malpractice Act).

20          (b) This chapter does not apply to a claim brought under:

21               (1) IC 22-3-2 (Worker's Compensation);

22               (2) IC 22-3-7 (Worker's Occupational Diseases  
23               Compensation);

24               (3) IC 22-8 (Occupational Health and Safety); or

25               (4) IC 22-4 (Unemployment Compensation).

26          Sec. 7. The civil tort immunity provided in this chapter is in  
27          addition to any other immunity protection that might apply under  
28          state or federal law.

29          Sec. 8. This chapter expires December 31, 2024.

30          SECTION 6. An emergency is declared for this act.



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 1, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 34-6-2-31.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.4. (a) "COVID-19", for purposes of IC 34-30-32, has the meaning set forth in IC 34-30-32-2.**

**(b) "COVID-19", for purposes of IC 34-30-33, has the meaning set forth in IC 34-30-33-2.**

SECTION 2. IC 34-6-2-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.5. "COVID-19 protective product", for purposes of IC 34-30-33, has the meaning set forth in IC 34-30-33-2.**

SECTION 3. IC 34-6-2-77.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 77.1. "Manufacturer or supplier", for purposes of IC 34-30-33, has the meaning set forth in IC 34-30-33-2."**

Page 1, between lines 4 and 5, begin a new paragraph and insert:

**"Sec. 1. This chapter applies only to a tort action."**

Page 1, line 5, delete "Sec. 1." and insert "Sec. 2."

Page 1, line 6, delete "2;" and insert "**2 or a mutated form of severe acute respiratory syndrome coronavirus 2;**".

Page 1, line 8, delete "2." and insert "**2 or a mutated form of severe acute respiratory syndrome coronavirus 2."**

Page 1, line 9, delete "Sec. 2." and insert "Sec. 3."

Page 2, line 5, delete "Sec. 3." and insert "Sec. 4."

Page 2, line 7, delete "Sec. 4." and insert "Sec. 5."

Page 2, line 8, after "civil" insert "**tort**".

Page 2, line 16, delete "Sec. 5." and insert "Sec. 6."

Page 2, line 16, after "civil" insert "**tort**".

Page 2, line 18, after "misconduct" insert "**(including fraud and intentionally tortious acts)**".

Page 2, line 20, delete "Sec. 6." and insert "Sec. 7."

Page 2, line 26, delete "or".



Page 2, line 27, delete "." and insert "; or".

Page 2, between lines 27 and 28, begin a new line block indented and insert:

**"(4) IC 22-4 (Unemployment Compensation)."**

Page 2, line 28, delete "Sec. 7." and insert "Sec. 8.".

Page 2, line 28, after "The" insert "civil tort".

Page 2, line 31, delete "Sec. 8." and insert "Sec. 9.".

Page 2, between lines 31 and 32, begin a new paragraph and insert:  
"SECTION 5. IC 34-30-33 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 33. COVID-19 Related Products Liability**

**Sec. 1. This chapter only applies to a tort action.**

**Sec. 2. The following definitions apply throughout this chapter:**

**(1) "COVID-19" means:**

**(A) severe acute respiratory syndrome coronavirus 2 or a mutated form of severe acute respiratory syndrome coronavirus 2; or**

**(B) the disease caused by severe acute respiratory syndrome coronavirus 2 or a mutated form of severe acute respiratory syndrome coronavirus 2.**

**(2) "COVID-19 protective product" means one (1) or more of the following:**

**(A) Personal protective equipment.**

**(B) Medical devices, equipment, and supplies used to treat COVID-19, including medical devices, equipment, or supplies that are used or modified for an unapproved use to treat COVID-19 or to prevent the spread of COVID-19.**

**(C) Medical devices, equipment, and supplies used outside of their normal use to treat COVID-19 or to prevent the spread of COVID-19.**

**(D) Medications used to treat COVID-19, including medications prescribed or dispensed for off label use to attempt to treat COVID-19.**

**(E) Tests, as approved by the federal Food and Drug Administration, to diagnose or determine immunity or exposure to COVID-19.**

**(F) A product designed to clean or disinfect to prevent the spread of COVID-19.**

**(G) Any component of an item described in this subdivision.**

**(3) "Manufacturer or supplier" means a person who designs,**





manufactures, labels, sells, distributes, or donates a COVID-19 protective product.

**Sec. 3. This chapter applies to a cause of action that accrues on or after March 1, 2020.**

**Sec. 4. Except as provided in section 5 or 6 of this chapter, a manufacturer or supplier is immune from civil tort liability for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product.**

**Sec. 5. The immunity from civil tort liability provided in section 4 of this chapter does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts) as proven by clear and convincing evidence.**

**Sec. 6. (a) This chapter supplements and is in addition to:**

- (1) IC 34-13-3 (Indiana Tort Claims Act); and**
- (2) IC 34-18 (Indiana Medical Malpractice Act).**

**(b) This chapter does not apply to a claim brought under:**

- (1) IC 22-3-2 (Worker's Compensation);**
- (2) IC 22-3-7 (Worker's Occupational Diseases Compensation);**
- (3) IC 22-8 (Occupational Health and Safety); or**
- (4) IC 22-4 (Unemployment Compensation).**

**Sec. 7. The civil tort immunity provided in this chapter is in addition to any other immunity protection that might apply under state or federal law.**

**Sec. 8. This chapter expires December 31, 2024."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 1 as introduced.)

BROWN L, Chairperson

Committee Vote: Yeas 8, Nays 3.

