116TH CONGRESS
2D Session

S.

To support State and local governments as well as tribal entities and to protect small businesses, health care providers, education, and non-profit entities from frivolous lawsuits related to coronavirus.

IN THE SENATE OF THE UNITED STATES

Mr. Manchin (for himself, Mr. Portman, Mr. Romney, Ms. Collins, Ms. Murkowski, and Mr. Cassidy) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To support State and local governments as well as tribal entities and to protect small businesses, health care providers, education, and non-profit entities from frivolous lawsuits related to coronavirus.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
5 (a) Short Title.—This Act may be cited as the
6 “Bipartisan State and Local Support and Small Business
7 Protections Act”.
8 (b) Table of Contents.—The table of contents for
9 this Act is as follows:
Sec. 1. Short title; table of contents.

TITLE I—CORONAVIRUS LOCAL COMMUNITY STABILIZATION FUND

Sec. 101. Coronavirus Local Community Stabilization Fund.

TITLE II—BACK TO WORK ACT

Sec. 201. Short title.
Sec. 203. Definitions.

Subtitle A—Liability Relief

PART I—LIABILITY LIMITATIONS FOR INDIVIDUALS AND ENTITIES ENGAGED IN BUSINESSES, SERVICES, ACTIVITIES, OR ACCOMMODATIONS

Sec. 211. Limitations on causes of action.

PART II—LIABILITY LIMITATIONS FOR HEALTH CARE PROVIDERS

Sec. 221. Limitations on medical liability actions.

PART III—MISCELLANEOUS PROVISIONS

Sec. 231. Jurisdiction.
Sec. 232. Procedures for suit in district courts of the United States.
Sec. 233. Public readiness and emergency preparedness.
Sec. 234. Demand letters; enforcement by the Attorney General.

PART IV—RELATION TO LABOR AND EMPLOYMENT LAWS

Sec. 241. Definition.
Sec. 242. Limitation on violations under specific laws.
Sec. 243. Liability for conducting testing at workplace.
Sec. 244. Joint employment and independent contracting.
Sec. 245. Exclusion of certain notification requirements as a result of the COVID–19 public health emergency.

Subtitle B—General Provisions

Sec. 281. Severability.
TITLE I—CORONAVIRUS LOCAL COMMUNITY STABILIZATION FUND

SEC. 101. CORONAVIRUS LOCAL COMMUNITY STABILIZATION FUND.

(a) IN GENERAL.—Title VI of the Social Security Act (42 U.S.C. 801 et seq.) is amended by inserting after section 601 the following:

“SEC. 602. CORONAVIRUS LOCAL COMMUNITY STABILIZATION FUND.

“(a) Appropriation.—

“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for making payments to States and Tribal entities under this section, $160,000,000,000 for fiscal year 2021, to remain available until expended.

“(2) RESERVATION OF FUNDS FOR PAYMENTS TO TRIBAL ENTITIES.—

“(A) IN GENERAL.—Of the amount appropriated under paragraph (1), the Secretary shall reserve $8,000,000,000 of such amount for making payments to Tribal entities under subsection (c)(7), subject to subparagraph (B).
“(B) Technical assistance to Tribal entities.—From the amount reserved under subparagraph (A), the Secretary shall reserve up to $2,000,000 for the purpose of providing technical assistance in complying with the requirements of this title for Tribal entities that are financially distressed (as determined by the Secretary).

“(b) Authority to make payments.—

“(1) In general.—

“(A) Payments to 50 States and District of Columbia.—The Secretary shall pay each State described in subparagraph (C) the following amounts:

“(i) Not later than 30 days after the date of enactment of this section, the relative population proportion amount determined for the State under paragraph (1) of subsection (c).

“(ii) Not later than 30 days after the date of enactment of this section, the first lost revenue amount determined for the State under paragraph (2) of subsection (c).
“(iii) Not later than June 30, 2021, the second lost revenue amount determined for the State under paragraph (3) of subsection (c).

“(iv) Not later than September 30, 2021, the third lost revenue amount determined for the State under paragraph (4) of subsection (c).

“(B) Payments to territories.—Not later than 30 days after the date of enactment of this section, the Secretary shall pay to each State that is not described in subparagraph (C) an amount equal to the product of—

“(i) $152,000,000,000; and

“(ii) the quotient of—

“(I) the population of the State;

and

“(II) the total population of all States (including States described in subparagraph (C)).

“(C) States described.—The States described in this subparagraph are each of the 50 States and the District of Columbia.

“(2) Amounts reserved for payments to local governments.—
“(A) IN GENERAL.—A State described in paragraph (1)(C) shall reserve—

“(i) 40 percent of each amount paid to the State under paragraph (1) to make direct payments to units of local government in the State in accordance with subsection (c)(6); and

“(ii) from each amount paid to the State under paragraph (1), an amount (not to exceed 5 percent of such amount paid to the State) to be determined by the Secretary in consultation with the Governor of the State to make direct payments (in such amounts as the Secretary and the Governor shall so determine) to—

“(I) special-purpose public entities in the State that perform essential public health and safety functions related to the COVID–19 pandemic; and

“(II) where applicable, multi-State entities in the State that are involved in the transportation of passengers or cargo.
“(B) Availability of amounts reserved for special-purpose public or multi-state entities.—If the amount reserved by a State under subparagraph (A)(ii) exceeds the total amount of direct payments to special-purpose public or multi-State entities determined for the State under such subparagraph, the State may use such excess amount in accordance with subsection (d).

“(c) Payment Amounts.—

“(1) Relative population proportion amount.—Subject to paragraph (5), the relative population proportion amount for a State described in subsection (b)(1)(C) is the product of—

“(A) $50,666,666,666; and

“(B) the quotient of—

“(i) the population of the State; and

“(ii) the total population of all States (including States not described in subsection (b)(1)(C)).

“(2) First lost revenue amount.—

“(A) In general.—Subject to paragraph (5), the first lost revenue amount determined under this paragraph for a State described in subsection (b)(1)(C) is the amount determined
for the State under subparagraph (B), as adjusted in accordance with subparagraph (C).

“(B) Determination of Lost Revenue.—The amount determined for a State under this subparagraph is the product of—

“(i) the amount by which—

“(I) the total amount of tax revenue collected by the State in the second and third calendar quarters of 2019 (as published by the Bureau of the Census in the Quarterly Summary of State and Local Tax Revenue); exceeds

“(II) the total amount of tax revenue collected by the State in the second and third calendar quarters of 2020 (as so published); and

“(ii) 1.48.

“(C) Adjustments to Lost Revenue.—The amount determined for a State under subparagraph (B) shall be adjusted in the following manner:

“(i) Such amount shall be reduced by the amount of any reduction to State tax revenue for the second and third calendar
quarters of 2020 that the Secretary deter-
mines results from the State—

“(I) having enacted on or after
March 1, 2020, a tax cut, rebate, de-
duction, or credit; or

“(II) reducing, delaying, or elimi-
nating (on or after such date) any fee
or other source of revenue.

“(ii) Such amount shall be increased
by the amount of any expenditures made
by the State during the second and third
calendar quarters of 2020 necessary to
meet the non-Federal share contribution
requirement of any public assistance that
is provided under the Robert T. Stafford
Disaster Relief and Emergency Assistance
Act (42 U.S.C. 5121 et seq.) on the basis
of a disaster or emergency declaration
under such Act that—

“(I) is declared during the period
beginning on January 1, 2020, and
ending on the date of enactment of
this section; and

“(II) is not related to the
COVID–19 pandemic.
“(3) SECOND LOST REVENUE AMOUNT.—

“(A) IN GENERAL.—Subject to paragraph (5), the second lost revenue amount determined under this paragraph for a State described in subsection (b)(1)(C) is the amount determined for the State under subparagraph (B), as adjusted in accordance with subparagraph (C).

“(B) DETERMINATION OF LOST REVENUE.—The amount determined for a State under this subparagraph is the product of—

“(i) the amount by which—

“(I) the total amount of tax revenue collected by the State in the fourth calendar quarter of 2019 and the first calendar quarter of 2020 (as published by the Bureau of the Census in the Quarterly Summary of State and Local Tax Revenue); exceeds

“(II) the total amount of tax revenue collected by the State in the fourth calendar quarter of 2020 and the first calendar quarter of 2021 (as so published); and

“(ii) 1.48.
“(C) ADJUSTMENTS TO LOST REVENUE.—

The amount determined for a State under subparagraph (B) shall be adjusted in the following manner:

“(i) Such amount shall be reduced by the amount of any reduction to State tax revenue for the fourth calendar quarter of 2020 and the first calendar quarter of 2021 that the Secretary determines results from the State—

“(I) having enacted on or after March 1, 2020, a tax cut, rebate, deduction, or credit; or

“(II) reducing, delaying, or eliminating (on or after such date) any fee or other source of revenue.

“(ii) Such amount shall be increased by the amount of any expenditures made by the State during the fourth calendar quarter of 2020 and the second calendar quarters of 2021 necessary to meet the non-Federal share contribution requirement of any public assistance that is provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act
(42 U.S.C. 5121 et seq.) on the basis of a
disaster or emergency declaration under
such Act that—

“(I) is declared during the period
beginning on January 1, 2020, and
ending on the date of enactment of
this section; and

“(II) is not related to the
COVID–19 pandemic.

“(D) Publication of first quarter of
2021 State and Local Government Tax Re-
venue.—Notwithstanding the Bureau of the
Census release schedule for publishing the
Quarterly Summary of State and Local Govern-
ments Tax Revenue for each quarter of 2021,
the Bureau of the Census shall publish the
Quarterly Summary of State and Local Govern-
ments Tax Revenue for the first calendar quar-
ter of 2021 not later than June 1, 2021.

“(4) Third Lost Revenue Amount.—

“(A) In General.—Subject to paragraph
(5), the third lost revenue amount determined
under this paragraph for a State described in
subsection (b)(1)(C) is the amount determined
for the State under subparagraph (B), as adjusted in accordance with subparagraph (C).

“(B) Determination of Lost Revenue.—The amount determined for a State under this subparagraph is the product of—

“(i) the amount by which—

“(I) the total amount of tax revenue collected by the State in the second calendar quarter of 2020 (as published by the Bureau of the Census in the Quarterly Summary of State and Local Tax Revenue); exceeds

“(II) the total amount of tax revenue collected by the State in the second calendar quarter of 2021 (as so published); and

“(ii) 1.48.

“(C) Adjustments to Lost Revenue.—The amount determined for a State under subparagraph (B) shall be adjusted in the following manner:

“(i) Such amount shall be reduced by the amount of any reduction to State tax revenue for the second calendar quarter of
2021 that the Secretary determines results from the State—

“(I) having enacted on or after March 1, 2020, a tax cut, rebate, deduction, or credit; or

“(II) reducing, delaying, or eliminating (on or after such date) any fee or other source of revenue.

“(ii) Such amount shall be increased by the amount of any expenditures made by the State during the second calendar quarter of 2021 necessary to meet the non-Federal share contribution requirement of any public assistance that is provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on the basis of a disaster or emergency declaration under such Act that—

“(I) is declared during the period beginning on January 1, 2020, and ending on the date of enactment of this section; and

“(II) is not related to the COVID–19 pandemic.
“(D) Publication of second quarter of 2021 state and local government tax revenue.—Notwithstanding the Bureau of the Census release schedule for publishing the Quarterly Summary of State and Local Governments Tax Revenue for each quarter of 2021, the Bureau of the Census shall publish the Quarterly Summary of State and Local Governments Tax Revenue for the second calendar quarter of 2021 not later than September 1, 2021.

“(5) Minimum payment amounts; payment caps; payment adjustments.—

“(A) Minimum payment amounts.—

Each of the amounts determined for a State described in subsection (b)(1)(C) under each of paragraphs (1) and (2) shall not be less than $250,000,000.

“(B) Payment caps.—

“(i) Cap on first 3 payments.—

The total amount of payments made to States under subsection (b)(1)(B) and paragraphs (1), (2), and (3) of this subsection shall not exceed $142,000,000,000.
“(ii) Cap on total payments.—The total amount of payments made to States under this subsection and subsection (b)(1)(B) shall not exceed $152,000,000,000.

“(C) Pro rata adjustments.—The Secretary shall adjust on a pro rata basis the amounts determined for each State described in subsection (b)(1)(C) under—

“(i) paragraphs (1) and (2) to the extent necessary to comply with the requirement of subparagraph (A);

“(ii) paragraphs (1), (2), and (3) to the extent necessary to comply with the requirement of subparagraph (B)(i); and

“(iii) paragraphs (1), (2), (3), and (4) to the extent necessary to comply with the requirement of subparagraph (B)(ii).

“(6) Direct payments to units of local government.—

“(A) In general.—Not later than 30 days after a State described in subparagraph (C) of subsection (b)(1) receives a payment described in such subsection, from the amount reserved by the State under subsection
(b)(2)(A)(i) from such payment, the State shall make payments to units of local government in the State in amounts to be determined under a formula, to be established by the Governor of the State subject to the approval of the Secretary, that meets the requirements of subparagraph (B).

“(B) Formula for allocating payments to local governments.—The requirements of this subparagraph with respect to a formula for determining payment amounts for units of local government in a State under this paragraph are the following:

“(i) That the formula—

“(I) determines the amount to be paid to a unit of local government on the basis of—

“(aa) the unit of local government’s population relative to the population of all units of local government in the State;

“(bb) the amount of revenue lost by the unit of local government as a result of the COVID–19 pandemic (as determined by
the Governor of the State) relative to the total amount of such lost revenue for all units of local government in the State (as so determined); or "(cc) a combination of the factors described in items (aa) and (bb); and "(II) is applied uniformly among all units of local government across the State. "(ii) Under the formula— "(I) 50 percent of the amount reserved by the State under paragraph (2)(A)(i) of subsection (b) from each payment received by the State under paragraph (1)(A) of such subsection is paid to units of local government that are municipalities; and "(II) 50 percent of the amount so reserved by the State from each such payment is paid to units of local government that are counties. "(7) Payments to tribal entities.—
“(A) IN GENERAL.—The amounts paid under this section to Tribal entities from the amount reserved under subparagraph (A) of subsection (a)(2) (after the application of subparagraph (B) of such subsection) shall be paid not later than 30 days after the date of enactment of this section.

“(B) SPECIAL CONSIDERATIONS WITH RESPECT TO PAYMENTS TO TRIBAL ENTITIES.—In determining the amounts to be paid to Tribal entities under this section—

“(i) the Secretary shall—

“(I) allocate 60 percent of the amount reserved under subparagraph (A) of subsection (a)(2) (after the application of subparagraph (B) of such subsection) based on the relative population of each Tribal entity that is a Tribal government or a Native Corporation; and

“(II) allocate 40 percent of such amount based on the number of employees of each Tribal entity that is a Tribal government (or a tribally-
owned entity of such a government) or
a Tribal organization;

“(ii) the Secretary shall only take the
relative populations of Tribal entities into
account in determining amounts to be paid
under this section to Tribal entities that
are Tribal governments and Native cor-
porations; and

“(iii) if the Secretary allocates fund-
ing using total American Indian or Alas-
kan Native (AIAN) persons data collected
in the U.S. Decennial Census, and a Tribal
government (as so defined) would other-
wise be assigned zero AIAN persons due to
the Tribal government lacking an Indian
Housing Block Grant formula area, the
Secretary shall be authorized to allocate
this funding to such Tribal governments
using an alternative equitable method, as
determined by the Secretary, including by
providing such Tribal governments min-
imum funding.

“(8) DATA.—For purposes of this subsection,
the population of States and units of local govern-
ments shall be determined based on the most recent
year for which data are available from the Bureau of the Census as of March 27, 2020.

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—Amounts received by a State, unit of local government, Tribal entity, or a special-purpose public or multi-State entity described in subsection (b)(2)(A)(ii) under this section shall be used—

“(A) to cover only those costs of the State, unit of local government, Tribal entity, or special-purpose public or multi-State entity that—

“(i) are expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) (including expenditures necessary to meet the non-Federal share contribution requirement of any public assistance that is provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on the basis of a disaster or emergency declaration under such Act that is declared in calendar year 2020);

“(ii) were not accounted for in the budget most recently approved as of March
27, 2020, for the State, unit of local government, Tribal entity, or special-purpose public or multi-State entity; and

“(iii) were incurred during the period that begins on March 1, 2020, and ends on December 31, 2021;

“(B) in the case of a State, unit of local government, special-purpose public or multi-State entity, or a Tribal entity that is a Tribal government (or a tribally-owned entity of such Tribal government) or a Tribal organization, for expenditures in calendar year 2020 or 2021 that the State, unit of local government, Tribal entity, or special-purpose public or multi-State entity would otherwise be unable to make because of decreased or delayed revenues; or

“(C) for expenditures associated with the distribution, storage, or administration of a COVID–19 vaccine licensed under section 351 of the Public Health Service Act or authorized under section 564 of the Federal Food, Drug, and Cosmetic Act.

“(2) LIMITATION ON DEPOSITS INTO STATE PENSION FUND; PROHIBITION ON STATE CHANGES
TO PENSION PROGRAMS THAT WOULD INCREASE PENSION OBLIGATION PAYMENTS.—

“(A) LIMITATION ON DEPOSITS INTO STATE PENSION FUNDS.—No State or unit of local government may deposit funds paid under this section into any State or local government pension fund.

“(B) PROHIBITION ON STATE CHANGES TO PENSION PROGRAMS THAT WOULD INCREASE PENSION OBLIGATION PAYMENTS.—

“(i) IN GENERAL.—As a condition of receiving funds under this section, a State or unit of local government shall not make any change to a pension program of the State or unit of local government that would result in the total pension obligation payments of such program for State fiscal year 2021 or 2022 exceeding the total pension obligation payments of such program for State fiscal year 2019, as adjusted under clause (ii).

“(ii) ADJUSTMENT.—For purposes of applying clause (i), the total pension obligation payments of a State for State fiscal year 2019 with respect to a pension pro-
gram of the State or unit of local government shall be adjusted in each of State fiscal years 2021 and 2022 in a manner that takes into account—

“(I) any cost-of-living adjustment or other adjustment to benefit amounts under such program that took effect after State fiscal year 2019, provided that such adjustment is not the result of a change to the program that was made after the date of enactment of this section; and

“(II) any change to the total number of individuals receiving benefits under such program from State fiscal year 2019, provided that such change is not the result of any change to the eligibility requirements or other terms of the program that was made after the date of enactment of this section.

“(e) Fair and Equitable Budgeting Requirement.—As a condition for receiving funds under this section, each State, to the extent allowable by State law, shall agree—
“(1) to base any cut to funding for units of local government under the State budget on emergency need, and shall ensure that such cuts are balanced to ensure all units of local government are treated fairly;

“(2) to primarily use economic conditions, budgetary shortfall, and revenue loss for each respective county and municipality, as compared to State fiscal year 2019 levels, to determine whether any such cut is balanced and appropriate; and

“(3) that the State legislative body shall have the authority to disapprove such a cut if such body determines that the cut would violate a condition of paragraph (1) or (2).

“(f) APPLICATION OF OTHER PROVISIONS.—

“(1) DEFINITIONS.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the terms used in this section have the meanings given those terms in subsection (g) of section 601.

“(B) OTHER TERMS.—In this section:

“(i) COUNTY.—The term ‘county’ means a county, parish, or other equivalent county division (as defined by the Bureau of the Census).
“(ii) Native Corporation.—The term ‘Native Corporation’ means a Native Corporation (as such term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) that serves an Alaska Native community that is not served by a Tribal government.

“(iii) Tribal entity.—The term ‘Tribal entity’ means any of the following:

“(I) A Tribal government (as defined in clause (iv)).

“(II) A Tribal organization (as defined in clause (v)).

“(III) A Native Corporation (as defined in clause (ii)).

“(iv) Tribal government.—The term ‘Tribal government’ means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this section pursuant to section

“(v) Tribal organization.—The term ‘Tribal organization’ has the meaning given such term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)).

“(vi) Unit of local government.—The term ‘unit of local government’ means a county, municipality, town, township, village, borough, or other unit of general government below the State level.

“(2) Local government certification requirement.—The certification requirement of subsection (e) of section 601 shall apply to a unit of local government receiving a payment under this section in the same manner as such requirement applies to a unit of local government receiving a payment under that section, except that a unit of local government shall not be required to submit a certification prior to receiving a payment from a State from each payment received by the State under subsection (b)(1)(A).

“(3) Oversight.—The amounts paid under this section—
“(A) shall be subject to the oversight requirements of subsection (f) of section 601 in the same manner as such requirements apply to the amounts paid under that section, and the recoupment authority under paragraph (2) of that subsection shall apply to oversight of compliance with the use of funds requirements of subsection (d) of this section and the fair and equitable budgeting requirements of subsection (e) of this section; and

“(B) shall be distributed in accordance with all applicable Federal laws.

“(4) IG FUNDING AUTHORITY.—Notwithstanding section 601(f)(3), the Inspector General of the Department of the Treasury may use the amounts appropriated under that section to carry out oversight and recoupment activities under this section in addition to the oversight and recoupment activities carried out under section 601(f).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 601(d) of the Social Security Act (42 U.S.C. 801(d)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C),
respectively, and adjusting the margins accordingly;

(B) in subparagraph (A) (as so redesignated)—

(i) by striking “necessary expenditures” and inserting “expenditures”; and

(ii) by inserting “(including expenditures necessary to meet the non-Federal share contribution requirement of any public assistance that is provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) on the basis of a disaster or emergency declaration under such Act that is declared in calendar year 2020)” before the semicolon;

(C) in subparagraph (C) (as so redesignated)—

(i) by striking “December 30, 2020” and inserting “December 31, 2021”; and

(ii) by striking the period at the end and inserting a semicolon;

(D) by striking “under this section to cover only” and inserting “under this section—“(1) to cover only”; and
(E) by adding at the end the following new paragraphs:

“(2) for expenditures in calendar year 2020 or 2021 that the State, Tribal government (or a tribally-owned entity of such Tribal government), or unit of local government would otherwise be unable to make because of decreased or delayed revenues; or

“(3) for expenditures associated with the distribution, storage, or administration of a COVID–19 vaccine licensed under section 351 of the Public Health Service Act or authorized under section 564 of the Federal Food, Drug, and Cosmetic Act.”.

(2) Section 5001(b) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) is amended by striking “for fiscal year 2020 under section 601(a)(1) of the Social Security Act (as added by subsection (a))” and inserting “under title VI of the Social Security Act”.

TITLE II—BACK TO WORK ACT

SEC. 201. SHORT TITLE.

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

SEC. 202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:
The SARS–CoV–2 virus that originated in China and causes the disease COVID–19 has caused untold misery and devastation throughout the world, including in the United States.

For months, frontline health care workers and health care facilities have fought the virus with courage and resolve. They did so at first with very little information about how to treat the virus and developed strategies to save lives of the people of the United States in real time. They risked their personal health and wellbeing to protect and treat their patients.

Businesses in the United States kicked into action to produce and procure personal protective equipment, such as masks, gloves, face shields, and hand sanitizer, and other necessary medical supplies, such as ventilators, at unprecedented rates.

To halt the spread of the disease, State and local governments took drastic measures. They shut down small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, and local government agencies. They ordered people to remain in their homes.

This standstill was needed to slow the spread of the virus. But it devastated the economy
of the United States. The sum of hundreds of local-
level and State-level decisions to close nearly every
space in which people might gather brought inter-
state commerce nearly to a halt.

(6) This halt led to the loss of millions of jobs.
These lost jobs were not a natural consequence of
the economic environment, but rather the result of
a drastic, though temporary, response to the unprece-
dented nature of this global pandemic.

(7) Congress passed a series of statutes to ad-
dress the health care and economic crises—the
Coronavirus Preparedness and Response Supple-
mental Appropriations Act, 2020 (Public Law 116–
123; 134 Stat. 146), the Families First Coronavirus
Response Act (Public Law 116–127; 134 Stat. 178),
the Coronavirus Aid, Relief, and Economic Security
Act or the CARES Act (Public Law 116–136), and
the Paycheck Protection Program and Health Care
Enhancement Act (Public Law 116–139; 134 Stat.
620). In these laws Congress exercised its power
under the Commerce and Spending Clauses of the
Constitution of the United States to direct trillions
of taxpayer dollars toward efforts to aid workers,
businesses, State and local governments, health care
workers, and patients.
(8) This legislation provided short-term insulation from the worst of the economic storm, but these laws alone cannot protect the United States from further devastation. Only reopening the economy so that workers can get back to work and students can get back to school can accomplish that goal.

(9) The Constitution of the United States specifically enumerates the legislative powers of Congress. One of those powers is the regulation of interstate commerce. The Government is not a substitute for the economy, but it has the authority and the duty to act when interstate commerce is threatened and damaged. As applied to the present crisis, Congress can deploy its power over interstate commerce to promote a prudent reopening of businesses and other organizations that serve as the foundation and backbone of the national economy and of commerce among the States. These include small and large businesses, schools (which are substantial employers in their own right and provide necessary services to enable parents and other caregivers to return to work), colleges and universities (which are substantial employers and supply the interstate market for higher-education services), religious, philanthropic and other nonprofit institutions (which are substan-
tial employers and provide necessary services to their communities), and local government agencies.

(10) Congress must also ensure that the Nation’s health care workers and health care facilities are able to act fully to defeat the virus.

(11) Congress must also safeguard its investment of taxpayer dollars under the CARES Act and other coronavirus legislation. Congress must ensure that those funds are used to help businesses and workers survive and recover from the economic crisis, and to help health care workers and health care facilities defeat the virus.

(12) One of the chief impediments to the continued flow of interstate commerce as this public-health crisis has unfolded is the risk of litigation. Small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, and local government agencies confront the risk of a tidal wave of lawsuits accusing them of exposing employees, customers, students, and worshipers to coronavirus. Health care workers face the threat of lawsuits arising from their efforts to fight the virus.

(13) They confront this litigation risk even as they work tirelessly to comply with the coronavirus
guidance, rules, and regulations issued by local governments, State governments, and the Federal Government. They confront this risk notwithstanding equipment and staffing shortages. And they confront this risk while also grappling with constantly changing information on how best to protect employees, customers, students, and worshipers from the virus, and how best to treat it.

(14) These lawsuits pose a substantial risk to interstate commerce because they threaten to keep small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, and local government agencies from re-opening for fear of expensive litigation that might prove to be meritless. These lawsuits further threaten to undermine the Nation’s fight against the virus by exposing our health care workers and health care facilities to liability for difficult medical decisions they have made under trying and uncertain circumstances.

(15) These lawsuits also risk diverting taxpayer money provided under the CARES Act and other coronavirus legislation from its intended purposes.

(16) This risk is not purely local. It is necessarily national in scale. A patchwork of local and
State rules governing liability in coronavirus-related lawsuits creates tremendous unpredictability for everyone participating in interstate commerce and acts as a significant drag on national recovery. The aggregation of each individual potential liability risk poses a substantial and unprecedented threat to interstate commerce.

(17) The accumulated economic risks for these potential defendants directly and substantially affects interstate commerce. Individuals and entities potentially subject to coronavirus-related liability will structure their decisionmaking to avoid that liability. Small and large businesses, schools, colleges and universities, religious, philanthropic and other non-profit institutions, and local government agencies may decline to reopen because of the risk of litigation. They may limit their output or engagement with customers and communities to avoid the risk of litigation. These individual economic decisions substantially affect interstate commerce because, as a whole, they will prevent the free and fair exchange of goods and services across State lines. Such economic activity that, individually and in the aggregate, substantially affects interstate commerce is
precisely the sort of conduct that should be subject
to congressional regulation.

(18) Lawsuits against health care workers and
facilities pose a similarly dangerous risk to interstate
commerce. Interstate commerce will not truly re-
bound from this crisis until the virus is defeated,
and that will not happen unless health care workers
and facilities are free to combat vigorously the virus
and treat patients with coronavirus and those other-
wise impacted by the response to coronavirus.

(19) Subjecting health care workers and facili-
ties to onerous litigation even as they have done
their level best to combat a virus about which very
little was known when it arrived in the United
States would divert important health care resources
from hospitals and providers to courtrooms.

(20) Such a diversion would substantially affect
interstate commerce by degrading the national ca-
pacity for combating the virus and saving patients,
thereby substantially elongating the period before
interstate commerce could fully re-engage.

(21) Congress also has the authority to deter-
mine the jurisdiction of the courts of the United
States, to set the standards for causes of action they
can hear, and to establish the rules by which those
causes of action should proceed. Congress therefore
must act to set rules governing liability in
coronavirus-related lawsuits.

(22) These rules necessarily must be temporary
and carefully tailored to the interstate crisis caused
by the coronavirus pandemic. They must extend no
further than necessary to meet this uniquely na-
tional crisis for which a patchwork of State and local
tort laws are ill-suited.

(23) Because of the national scope of the eco-
nomic and health care dangers posed by the risks of
coronavirus-related lawsuits, establishing temporary
rules governing liability for certain coronavirus-re-
lated tort claims is a necessary and proper means of
carrying into execution Congress’s power to regulate
commerce among the several States.

(24) Because Congress must safeguard the in-
vestment of taxpayer dollars it made in the CARES
Act and other coronavirus legislation, and ensure
that they are used for their intended purposes and
not diverted for other purposes, establishing tem-
porary rules governing liability for certain
coronavirus-related tort claims is a necessary and
proper means of carrying into execution Congress’s
power to provide for the general welfare of the United States.

(b) PURPOSES.—Pursuant to the powers delegated to Congress by article I, section 8, clauses 1, 3, 9, and 18, and article III, section 2, clause 1 of the Constitution of the United States, the purposes of this title are to—

(1) establish necessary and consistent standards for litigating certain claims specific to the unique coronavirus pandemic;

(2) prevent the overburdening of the court systems with undue litigation;

(3) encourage planning, care, and appropriate risk management by small and large businesses, schools, colleges and universities, religious, philanthropic and other nonprofit institutions, local government agencies, and health care providers;

(4) ensure that the Nation’s recovery from the coronavirus economic crisis is not burdened or slowed by the substantial risk of litigation;

(5) prevent litigation brought to extract settlements, rather than vindicate meritorious claims;

(6) protect interstate commerce from the burdens of potentially meritless litigation;

(7) ensure the economic recovery proceeds without artificial and unnecessary delay;
(8) protect the interests of the taxpayers by ensuring that emergency taxpayer support continues to aid businesses, workers, and health care providers; and

(9) protect the highest and best ideals of the national economy, so businesses can produce and serve their customers, workers can work, teachers can teach, students can learn, and believers can worship.

SEC. 203. DEFINITIONS.

In this title:

(1) APPLICABLE GOVERNMENT STANDARDS AND GUIDANCE.—The term “applicable government standards and guidance” means—

(A) any mandatory standards or regulations specifically concerning the prevention or mitigation of the transmission of coronavirus issued by the Federal Government, or a State or local government with jurisdiction over an individual or entity, whether provided by executive, judicial, or legislative order; and

(B) with respect to an individual or entity that, at the time of the actual, alleged, feared, or potential for exposure to coronavirus is not subject to any mandatory standards or regula-
tions described in subparagraph (A), any guidance, standards, or regulations specifically concerning the prevention or mitigation of the transmission of coronavirus issued by the Federal Government, or a State or local government with jurisdiction over the individual or entity.

(2) Businesses, services, activities, or accommodations.—The term “businesses, services, activities, or accommodations” means any act by an individual or entity, irrespective of whether the act is carried on for profit, that is interstate or foreign commerce, that involves persons or things in interstate or foreign commerce, that involves the channels or instrumentalities of interstate or foreign commerce, that substantially affects interstate or foreign commerce, or that is otherwise an act subject to regulation by Congress as necessary and proper to carry into execution Congress’s powers to regulate interstate or foreign commerce or to spend funds for the general welfare.

(3) Coronavirus.—The term “coronavirus” means any disease, health condition, or threat of harm caused by the SARS–CoV–2 virus or a virus mutating therefrom.
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(4) Coronavirus exposure action.—

(A) In general.—The term “coronavirus exposure action” means a civil action—

(i) brought by a person who suffered personal injury or is at risk of suffering personal injury, or a representative of a person who suffered personal injury or is at risk of suffering personal injury;

(ii) brought against an individual or entity engaged in businesses, services, activities, or accommodations; and

(iii) alleging that an actual, alleged, feared, or potential for exposure to coronavirus caused the personal injury or risk of personal injury, that—

(I) occurred in the course of the businesses, services, activities, or accommodations of the individual or entity; and

(II) occurred—

(aa) on or after December 1, 2019; and

(bb) before the later of—
(AA) the date that is
12 months after the date of
enactment of this Act; or

(BB) the date on which
there is no declaration by
the Secretary of Health and
Human Services under sec-
tion 319F–3(b) of the Pub-
lic Health Service Act (42
U.S.C. 247d–6d(b)) (relat-
ing to medical counter-
measures) that is in effect
with respect to coronavirus,
including the Declaration
Under the Public Readiness
and Emergency Prepared-
ness Act for Medical Coun-
termeasures Against
15198) issued by the Sec-
retary of Health and Human
Services on March 17, 2020.

(B) EXCLUSIONS.—The term “coronavirus
exposure action” does not include—
(i) a criminal, civil, or administrative
enforcement action brought by the Federal
Government or any State, local, or Tribal
government; or

(ii) a claim alleging intentional dis-

crimination on the basis of race, color, na-
tional origin, religion, sex (including preg-
nancy), disability, genetic information, or
age.

(5) CORONAVIRUS-RELATED ACTION.—The
term “coronavirus-related action” means a
coronavirus exposure action or a coronavirus-related
medical liability action.

(6) CORONAVIRUS-RELATED HEALTH CARE
services.—The term “coronavirus-related health
care services” means services provided by a health
care provider, regardless of the location where the
services are provided, that relate to—

(A) the diagnosis, prevention, or treatment
of coronavirus;

(B) the assessment or care of an individual
with a confirmed or suspected case of
coronavirus; or

(C) the care of any individual who is ad-
mitted to, presents to, receives services from, or
resides at, a health care provider for any purpose during the period of a Federal emergency declaration concerning coronavirus, if such provider’s decisions or activities with respect to such individual are impacted as a result of coronavirus.

(7) CORONAVIRUS-RELATED MEDICAL LIABILITY ACTION.—

(A) IN GENERAL.—The term “coronavirus-related medical liability action” means a civil action—

(i) brought by a person who suffered personal injury, or a representative of a person who suffered personal injury;

(ii) brought against a health care provider; and

(iii) alleging any harm, damage, breach, or tort resulting in the personal injury alleged to have been caused by, be arising out of, or be related to a health care provider’s act or omission in the course of arranging for or providing coronavirus-related health care services that occurred—
(I) on or after December 1, 2019; and

(II) before the later of—

(aa) the date that is 12 months after the date of enactment of this Act; or

(bb) the date on which there is no declaration by the Secretary of Health and Human Services under section 319F–3(b) of the Public Health Service Act (42 U.S.C. 247d–6d(b)) (relating to medical countermeasures) that is in effect with respect to coronavirus, including the Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19 (85 Fed. Reg. 15198) issued by the Secretary of Health and Human Services on March 17, 2020.

(B) EXCLUSIONS.—The term “coronavirus-related medical liability action” does not include—
(i) a criminal, civil, or administrative enforcement action brought by the Federal Government or any State, local, or Tribal government; or

(ii) a claim alleging intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(8) EMPLOYER.—The term “employer”—

(A) means any person serving as an employer or acting directly in the interest of an employer in relation to an employee;

(B) includes a public agency; and

(C) does not include any labor organization (other than when acting as an employer) or any person acting in the capacity of officer or agent of such labor organization.

(9) GOVERNMENT.—The term “government” means an agency, instrumentality, or other entity of the Federal Government, a State government (including multijurisdictional agencies, instrumentalities, and entities), a local government, or a Tribal government.
(10) GROSS NEGLIGENCE.—The term “gross negligence” means a conscious, voluntary act or omission in reckless disregard of—

(A) a legal duty;

(B) the consequences to another party; and

(C) applicable government standards and guidance.

(11) HARM.—The term “harm” includes—

(A) physical and nonphysical contact that results in personal injury to an individual; and

(B) economic and noneconomic losses.

(12) HEALTH CARE PROVIDER.—

(A) IN GENERAL.—The term “health care provider” means any person, including an agent, volunteer (subject to subparagraph (C)), contractor, employee, or other entity, who is—

(i) required by Federal or State law to be licensed, registered, or certified to provide health care and is so licensed, registered, or certified (or is exempt from any such requirement);

(ii) otherwise authorized by Federal or State law to provide care (including services and supports furnished in a home or community-based residential setting under
the State Medicaid program or a waiver of that program); or

(iii) considered under applicable Federal or State law to be a health care provider, health care professional, health care institution, or health care facility.

(B) INCLUSION OF ADMINISTRATORS, SUPERVISORS, ETC.—The term “health care provider” includes a health care facility administrator, executive, supervisor, board member or trustee, or another individual responsible for directing, supervising, or monitoring the provision of coronavirus-related health care services in a comparable role.

(C) INCLUSION OF VOLUNTEERS.—The term “health care provider” includes volunteers that meet the following criteria:

(i) The volunteer is a health care professional providing coronavirus-related health care services.

(ii) The act or omission by the volunteer occurs—

(I) in the course of providing health care services;
(II) in the health care professional’s capacity as a volunteer;

(III) in the course of providing health care services that—

(aa) are within the scope of the license, registration, or certification of the volunteer, as defined by the State of licensure, registration, or certification; and

(bb) do 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

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

(13) INDIVIDUAL OR ENTITY.—The term “individual or entity” means—

(A) any natural person, corporation, company, trade, business, firm, partnership, joint stock company, vessel in rem, educational institution, labor organization, or similar organization or group of organizations;
(B) any nonprofit organization, foundation, society, or association organized for religious, charitable, educational, or other purposes; or (C) any State, Tribal, or local government.

(14) LOCAL GOVERNMENT.—The term “local government” means any unit of government within a State, including a—

(A) county;
(B) borough;
(C) municipality;
(D) city;
(E) town;
(F) township;
(G) parish;
(H) local public authority, including any public housing agency under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);
(I) special district;
(J) school district;
(K) intrastate district;
(L) council of governments, whether or not incorporated as a nonprofit corporation under State law; and
(M) agency or instrumentality of—
(i) multiple units of local government
   (including units of local government located in different States); or

   (ii) an intra-State unit of local government.

(15) MANDATORY.—The term “mandatory”,
   with respect to applicable government standards and
   guidance, means the standards or regulations are
   themselves enforceable by the issuing government
   through criminal, civil, or administrative action.

(16) PERSONAL INJURY.—The term “personal
   injury” means—

   (A) actual or potential physical injury to
       an individual or death caused by a physical in-
       jury; or

   (B) mental suffering, emotional distress, or
       similar injuries suffered by an individual in con-
       nection with a physical injury.

(17) STATE.—The term “State”—

   (A) means any State of the United States,

   the District of Columbia, the Commonwealth of
   Puerto Rico, the Northern Mariana Islands, the
   United States Virgin Islands, Guam, American
   Samoa, and any other territory or possession of
the United States, and any political subdivision
or instrumentality thereof; and

(B) includes any agency or instrumentality
of 2 or more of the entities described in sub-
paragraph (A).

(18) TRIBAL GOVERNMENT.—

(A) IN GENERAL.—The term “Tribal gov-
ernment” means the recognized governing body
of any Indian tribe included on the list pub-
lished by the Secretary of the Interior pursuant
to section 104(a) of the Federally Recognized
5131(a)).

(B) INCLUSION.—The term “Tribal gov-
ernment” includes any subdivision (regardless
of the laws and regulations of the jurisdiction
in which the subdivision is organized or incor-
porated) of a governing body described in sub-
paragraph (A) that—

(i) is wholly owned by that governing
body; and

(ii) has been delegated the right to ex-
ercise 1 or more substantial governmental
functions of the governing body.
(19) **WILLFUL MISCONDUCT.**—The term “willful misconduct” means an act or omission that is taken—

(A) intentionally to achieve a wrongful purpose;

(B) knowingly without legal or factual justification; and

(C) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

**Subtitle A—Liability Relief**

**PART I—LIABILITY LIMITATIONS FOR INDIVIDUALS AND ENTITIES ENGAGED IN BUSINESSES, SERVICES, ACTIVITIES, OR ACCOMMODATIONS**

**SEC. 211. LIMITATIONS ON CAUSES OF ACTION.**

(a) **MINIMUM STANDARD FOR CAUSE OF ACTION.**—

(1) **IN GENERAL.**—A coronavirus exposure action in which liability may be imposed under a standard that is less stringent than a standard of gross negligence may not be filed or maintained in any Federal, State, or Tribal court.

(2) **APPLICATION.**—Paragraph (1) shall apply to—
(A) any cause of action that is a coronavirus exposure action that was filed before the date of enactment of this Act and that is pending on such date of enactment; and

(B) any coronavirus exposure action filed on or after such date of enactment.

(b) Preservation of Liability Limits and Defenses.—Except as otherwise explicitly provided in this section, nothing in this section expands any liability otherwise imposed or limits any defense otherwise available under Federal, State, or Tribal law.

(c) Immunity.—Nothing in this section abrogates the immunity of any State, or waives the immunity of any Tribal government. The limitations on liability provided under this section shall control in any action properly filed against a State or Tribal government pursuant to a duly executed waiver by the State or Tribe of sovereign immunity and stating claims within the scope of this section.

(d) Preemption and Supersedure.—

(1) In general.—Except as described in paragraphs (2) through (5), this section preempts and supersedes any Federal, State, or Tribal law, including statutes, regulations, rules, orders, proclamations, or standards that are enacted, promulgated, or established under common law, under which li-
ability may be imposed in a coronavirus exposure ac-
tion under a standard that is less stringent than a
standard of gross negligence.

(2) WORKERS’ COMPENSATION LAWS NOT PRE-
EMPTED OR SUPERSEDED.—Nothing in this title
shall be construed to affect the applicability of any
State or Tribal law providing for a claim for benefits
under a workers’ compensation scheme or program,
or to preempt or supersede an exclusive remedy
under such scheme or program.

(3) ENFORCEMENT ACTIONS.—Nothing in this
section shall be construed to impair, limit, or affect
the authority of the Federal Government, or of any
State, local, or Tribal government, to bring any
criminal, civil, or administrative enforcement action
against any individual or entity.

(4) DISCRIMINATION CLAIMS.—Nothing in this
section shall be construed to affect the applicability
of any provision of any Federal, State, or Tribal law
that creates a cause of action for intentional dis-
crimination on the basis of race, color, national ori-
gin, religion, sex (including pregnancy), disability,
genetic information, or age.
(5) MAINTENANCE AND CURE.—Nothing in this section shall be construed to affect a seaman’s right to claim maintenance and cure benefits.

PART II—LIABILITY LIMITATIONS FOR HEALTH CARE PROVIDERS

SEC. 221. LIMITATIONS ON MEDICAL LIABILITY ACTIONS.

(a) Minimum Standard for Cause of Action.—

(1) IN GENERAL.—A coronavirus-related medical liability action in which liability may be imposed under a standard that is less stringent than a standard of gross negligence may not be filed or maintained in any Federal, State, or Tribal court.

(2) APPLICATION.—Paragraph (1) shall apply to—

(A) any cause of action that is a coronavirus-related medical liability action that was filed before the date of enactment of this Act and that is pending on such date of enactment; and

(B) any coronavirus-related medical liability action filed on or after such date of enactment.

(b) Preservation of Liability Limits and Defenses.—Except as otherwise explicitly provided in this section, nothing in this section expands any liability other-
wise imposed or limits any defense otherwise available
under Federal, State, or Tribal law.

(c) IMMUNITY.—Nothing in this section abrogates the
immunity of any State, or waives the immunity of any
Tribal government. The limitations on liability provided
under this section shall control in any action properly filed
against a State or Tribal government pursuant to a duly
executed waiver by the State or Tribe of sovereign immu-
nity and stating claims within the scope of this section.

(d) PREEMPTION AND SUPERSEDURE.—

(1) IN GENERAL.—Except as described in para-
graphs (2) through (5), this section preempts and
supersedes any Federal, State, or Tribal law, includ-
ing statutes, regulations, rules, orders, proclama-
tions, or standards that are enacted, promulgated,
or established under common law, under which li-
ability may be imposed in a coronavirus-related med-
ical liability action under a standard that is less
stringent than a standard of gross negligence.

(2) ENFORCEMENT ACTIONS.—Nothing in this
section shall be construed to impair, limit, or affect
the authority of the Federal Government, or of any
State, local, or Tribal government to bring any
criminal, civil, or administrative enforcement action
against any health care provider.
(3) DISCRIMINATION CLAIMS.—Nothing in this section shall be construed to affect the applicability of any provision of any Federal, State, or Tribal law that creates a cause of action for intentional discrimination on the basis of race, color, national origin, religion, sex (including pregnancy), disability, genetic information, or age.

(4) PUBLIC READINESS AND EMERGENCY PREPAREDNESS.—Nothing in this section shall be construed to affect the applicability of section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) to any act or omission involving a covered countermeasure, as defined in subsection (i) of such section in arranging for or providing coronavirus-related health care services. Nothing in this section shall be construed to affect the applicability of section 319F–4 of the Public Health Service Act (42 U.S.C. 247d–6e).

(5) VACCINE INJURY.—To the extent that title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) establishes a Federal rule applicable to a civil action brought for a vaccine-related injury or death, this section does not affect the application of that rule to such an action.
PART III—MISCELLANEOUS PROVISIONS

SEC. 231. JURISDICTION.

(a) JURISDICTION.—The district courts of the United States shall have concurrent original jurisdiction of any coronavirus-related action.

(b) REMOVAL.—

(1) IN GENERAL.—A coronavirus-related action of which the district courts of the United States have original jurisdiction under subsection (a) that is brought in a State or Tribal government court may be removed to a district court of the United States in accordance with section 1446 of title 28, United States Code, except that—

(A) notwithstanding subsection (b)(2)(A) of such section, such action may be removed by any defendant without the consent of all defendants; and

(B) notwithstanding subsection (b)(1) of such section, for any cause of action that is a coronavirus-related action that was filed in a State court before the date of enactment of this Act and that is pending in such court on such date of enactment, and of which the district courts of the United States have original jurisdiction under subsection (a), any defendant may file a notice of removal of a civil action or
proceeding within 30 days of the date of enact-
ment of this Act.

(2) Procedure after removal.—Section
1447 of title 28, United States Code, shall apply to
any removal of a case under paragraph (1), except
that, notwithstanding subsection (d) of such section,
a court of appeals of the United States shall accept
an appeal from an order of a district court granting
or denying a motion to remand the case to the State
or Tribal government court from which it was re-
moved if application is made to the court of appeals
of the United States not later than 10 days after the
entry of the order.

SEC. 232. PROCEDURES FOR SUIT IN DISTRICT COURTS OF
THE UNITED STATES.

(a) Pleading with particularity.—In any
coronavirus-related action filed in or removed to a district
court of the United States—

(1) the complaint shall plead with particu-

larity—

(A) all factual matters asserted to estab-

lish that the individual or entity against which
a complaint is filed was a cause of the personal
injury alleged; and
(B) with respect to a coronavirus exposure action, all places and persons visited by the person on whose behalf the complaint was filed and all persons who visited the residence of the person on whose behalf the complaint was filed during the 14-day-period before the alleged exposure to the coronavirus, including—

(i) each individual or entity against which a complaint is filed, along with the factual basis for the belief that such individual or entity was a cause of the personal injury alleged; and

(ii) every other person or place visited by the person on whose behalf the complaint was filed and every other person who visited the residence of the person on whose behalf the complaint was filed during such period, along with the factual basis for the belief that these persons and places were not the cause of the personal injury alleged; and

(2) the complaint shall plead with particularity each alleged act or omission that resulted in personal injury, harm, damage, breach, or tort.
(b) Application With Federal Rules of Civil Procedure.—This section applies exclusively to any coronavirus-related action filed in or removed to a district court of the United States and, except to the extent that this section requires additional information to be contained in or attached to pleadings, nothing in this section is intended to amend or otherwise supersede applicable rules of Federal civil procedure.

SEC. 233. PUBLIC READINESS AND EMERGENCY PREPAREDNESS.

Nothing in this subtitle shall be construed to affect the applicability of section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) to any act or omission involving a covered countermeasure, as defined in subsection (i) of such section in arranging for or providing coronavirus-related health care services. Nothing in this subtitle shall be construed to affect the applicability of section 319F–4 of the Public Health Service Act (42 U.S.C. 247d–6e).

SEC. 234. DEMAND LETTERS; ENFORCEMENT BY THE ATTORNEY GENERAL.

(a) In General.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of transmitting demands for remuneration in exchange for settling,
releasing, waiving, or otherwise not pursuing a claim that
is, or could be, brought as part of a coronavirus-related
action and that is meritless, the Attorney General may
commence a civil action in any appropriate district court
of the United States.

(b) RELIEF.—In a civil action under subsection (a),
the court may, to vindicate the public interest, assess a
civil penalty against the respondent in an amount not ex-
ceeding $50,000 per transmitted demand for remunera-
tion in exchange for settling, releasing, waiving or other-
wise not pursuing a claim that is meritless.

(c) DISTRIBUTION OF CIVIL PENALTIES.—If the At-
torney General obtains civil penalties in accordance with
subsection (b), the Attorney General shall distribute the
proceeds equitably among those persons aggrieved by the
respondent’s pattern or practice of transmitting demands
for remuneration in exchange for settling, releasing,
waiving or otherwise not pursuing a claim that is
meritless.

PART IV—RELATION TO LABOR AND
EMPLOYMENT LAWS

SEC. 241. DEFINITION.

In this part, the term “covered period” means the
period—

(1) beginning on December 1, 2019; and
(2) ending on later of—

(A) the date that is 12 months after the
date of enactment of this Act; or

(B) the date on which there is no declara-
tion by the Secretary of Health and Human
Services under section 319F–3(b) of the Public
Health Service Act (42 U.S.C. 247d–6d(b)) (re-
lating to medical countermeasures) that is in ef-
fect with respect to coronavirus, including the
Declaration Under the Public Readiness and
Emergency Preparedness Act for Medical Coun-
15198) issued by the Secretary of Health and
Human Services on March 17, 2020.

SEC. 242. LIMITATION ON VIOLATIONS UNDER SPECIFIC
LAWS.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term
“covered Federal employment law” means any of the
following:

(A) The Occupational Safety and Health
Act of 1970 (29 U.S.C. 651 et seq.) (including
any standard included in a State plan approved
under section 18 of such Act (29 U.S.C. 667)).


(D) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(E) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(F) Title II of the Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff et seq.).

(G) Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.).

(2) LIMITATION.—Notwithstanding any provision of a covered Federal employment law, in any action, proceeding, or investigation resulting from or related to an actual, alleged, feared, or potential for exposure to coronavirus during the covered period, or a change in working conditions during the covered period caused by a law, rule, declaration, or order related to coronavirus, an employer shall not be subject to any enforcement proceeding or liability under any provision of a covered Federal employment law if the employer—
(A) was relying on and substantially following applicable government standards and guidance;
(B) knew of the obligation under the relevant provision; and
(C) attempted to satisfy any such obligation by—
(i) exploring options to comply with such obligations and with the applicable government standards and guidance (such as through the use of virtual training or remote communication strategies);
(ii) implementing interim alternative protections or procedures; or
(iii) following guidance issued by the relevant agency with jurisdiction with respect to any exemptions from such obligation.

(b) Public Accommodation Laws.—
(1) Definitions.—In this subsection—
(A) the term “auxiliary aids and services” has the meaning given the term in section 4 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12103);
(B) the term “covered public accommodation law” means—

(i) title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181 et seq.); or

(ii) title II of the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.); and

(C) the term “place of public accommodation” means—

(i) a place of public accommodation, as defined in section 201 of the Civil Rights Act of 1964 (42 U.S.C. 2000a); or

(ii) a public accommodation, as defined in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(2) ACTIONS AND MEASURES DURING A PUBLIC HEALTH EMERGENCY.—

(A) IN GENERAL.—Notwithstanding any other provision of law or regulation, during the covered period, no person who owns, leases (or leases to), or operates a place of public accommodation shall be liable under, or found in violation of, any covered public accommodation law for any action or measure taken regarding
coronavirus and that place of public accommo-
dation, if such person—

(i) has determined that the significant
risk of substantial harm to public health or
the health of employees cannot be reduced
or eliminated by reasonably modifying poli-
cies, practices, or procedures, or the provi-
sion of an auxiliary aid or service; or

(ii) has offered such a reasonable
modification or auxiliary aid or service but
such offer has been rejected by the indi-
vidual protected by the covered law.

(B) REQUIRED WAIVER PROHIBITED.—For
purposes of this subsection, no person who
owns, leases (or leases to), or operates a place
of public accommodation shall be required to
waive any measure, requirement, or rec-
ommendation that has been adopted in accord-
ance with a requirement or recommendation
issued by the Federal Government or any State
or local government with regard to coronavirus,
in order to offer such a reasonable modification
or auxiliary aids and services.
SEC. 243. LIABILITY FOR CONDUCTING TESTING AT WORKPLACE.

Notwithstanding any other provision of Federal, State, or local law, an employer, or other person who hires or contracts with other individuals to provide services, that, during the covered period, conducts tests for coronavirus on the employees of the employer or persons hired or contracted to provide services shall not be liable for any action or personal injury directly resulting from such testing, except for those personal injuries caused by the gross negligence or intentional misconduct of the employer or other person.

SEC. 244. JOINT EMPLOYMENT AND INDEPENDENT CONTRACTING.

Notwithstanding any other provision of Federal or State law, including any covered Federal employment law (as defined in section 242(a)), the Labor Management Relations Act, 1947 (29 U.S.C. 141 et seq.), the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), and the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), it shall not constitute evidence of a joint employment relationship or employment relationship for any employer to provide or require, during the covered period, for an employee of another employer or for an independent contractor, any of the following:
(1) Coronavirus-related policies, procedures, or training.

(2) Personal protective equipment or training for the use of such equipment.

(3) Cleaning or disinfecting services or the means for such cleaning or disinfecting.

(4) Workplace testing for coronavirus.

(5) Temporary assistance due to coronavirus, including financial assistance or other health and safety benefits.

SEC. 245. EXCLUSION OF CERTAIN NOTIFICATION REQUIREMENTS AS A RESULT OF THE COVID–19 PUBLIC HEALTH EMERGENCY.

(a) DEFINITIONS.—Section 2(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(a)) is amended—

(1) in paragraph (2), by adding before the semicolon at the end the following: “and the shut-down, if occurring during the covered period, is not a result of the COVID–19 national emergency”;

(2) in paragraph (3)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by adding “and” at the end; and
(C) by adding at the end the following:

“(C) if occurring during the covered pe-
period, is not a result of the COVID–19 national
emergency;’’;

(3) in paragraph (7), by striking ‘‘and’’;

(4) in paragraph (8), by striking the period at
the end and inserting ‘‘; and’’; and

(5) by adding at the end the following:

“(9) the term ‘covered period’ has the meaning
given that term in section 241 of the Back to Work
Act.”.

(b) EXCLUSION FROM DEFINITION OF EMPLOYMENT
LOSS.—Section 2(b) of the Worker Adjustment and Re-
training Notification Act (29 U.S.C. 2101(b)) is amended
by adding at the end the following:

“(3) Notwithstanding subsection (a)(6), during
the covered period an employee may not be consid-
ered to have experienced an employment loss if the
termination, layoff exceeding 6 months, or reduction
in hours of work of more than 50 percent during
each month of any 6-month period involved is a re-
sult of the COVID–19 national emergency.’’.
Subtitle B—General Provisions

SEC. 281. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such a provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this title, as well as the application of such provision or amendment to any person other than the parties to the action holding the provision or amendment to be unconstitutional, or to any circumstances other than those presented in such action, shall not be affected thereby.