

116TH CONGRESS
2D SESSION

S. 3915

To exempt certain businesses from liability arising from claims relating to an individual contracting COVID–19 as a result of patronizing a business or healthcare entity.

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2020

Mrs. LOEFFLER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To exempt certain businesses from liability arising from claims relating to an individual contracting COVID–19 as a result of patronizing a business or healthcare entity.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Reopening
5 Businesses Recovering from COVID–19 Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) COVID–19 is a highly contagious infectious
9 disease caused by the virus SARS–CoV–2 with more

1 than 6,000,000 people worldwide, and more than
2 1,900,000 people in the United States, infected.

3 (2) To flatten the infection curve, the United
4 States encouraged individuals to practice social
5 distancing and States issued stay-at-home orders to
6 enforce social distancing.

7 (3) The necessary measures taken to flatten the
8 curve resulted in the closure or severe reduction in
9 operations of numerous businesses, including res-
10 taurants, retailers, and hospitality industry business.

11 (4) The closure and reduction in operations of
12 these business precipitated a significant reduction of
13 economic activity and strained the long term health
14 of many businesses.

15 (5) The measures taken appear to have flat-
16 tened the infection curve and States have begun to
17 reopen.

18 (6) Health experts agree that COVID-19 re-
19 mains a highly infectious disease.

20 (7) As businesses reopen and customers begin
21 to patronize them there presents a risk of trans-
22 mission despite mitigation efforts taken by busi-
23 nesses.

24 (8) Businesses already strained by prior mitiga-
25 tion efforts cannot afford further economic strain re-

1 sulting from civil tort claims stemming from cus-
 2 tomers and patrons contracting COVID–19.

3 (9) Therefore, it is necessary to provide busi-
 4 nesses and healthcare providers with an exemption
 5 from liability for claims arising from or relating to
 6 individuals contracting COVID–19.

7 (b) PURPOSE.—The purpose of this Act is to provide
 8 for an exemption from liability arising from claims arising
 9 from an individual contracting of COVID–19 as a result
 10 of patronage of a business or health care entity during
 11 such time as a national health emergency exists.

12 **SEC. 3. DEFINITIONS.**

13 (1) BUSINESS.—The term “business”—

14 (A) means any entity organized as corpora-
 15 tion, partnership, limited liability corporation,
 16 limited liability partnership, sole proprietorship,
 17 farming cooperative, or any other corporate
 18 structure recognized by the State in which the
 19 business is domiciled; and

20 (B) includes any nonprofit organization or
 21 educational institution.

22 (2) COVERED INDIVIDUAL.—The term “covered
 23 individual” means—

24 (A) any invitee or licensee, as defined by
 25 the tort law of the State in which the business

1 or COVID–19 medical entity is domiciled or
2 does business;

3 (B) any employee, contractor, or other in-
4 dividual providing services to a business or
5 COVID–19 medical entity; or

6 (C) any other person who enters or other-
7 wise visits or avails themselves of the services
8 provided by a business or COVID–19 medical
9 entity.

10 (3) COVERED PERIOD.—The term “covered pe-
11 riod” means the public health emergency declared by
12 the Secretary of Health and Human Services under
13 section 319 of the Public Health Service Act (42
14 U.S.C. 247d) on January 31, 2020, with respect to
15 COVID–19.

16 (4) COVID–19 ACTION.—The term “COVID–
17 19 action”—

18 (A) means any civil action commenced in
19 any Federal or State court in which the alleged
20 harm or injury to the plaintiff arises from or is
21 related to the actual or potential contracting in-
22 fection of COVID–19 or SARS–CoV–2; and

23 (B) does not include any action brought by
24 a government entity in a regulatory, super-
25 visory, or enforcement capacity.

1 (5) COVID–19 MEDICAL ENTITY.—Any busi-
 2 ness or governmental institution that provides
 3 healthcare related services for COVID–19, including
 4 treating, testing, or transportation of COVID–19
 5 patients, manufacturing or distribution of personal
 6 protective equipment, and manufacturing, distrib-
 7 uting, or testing of other healthcare equipment.

8 (6) DAMAGES.—The term “damages” means
 9 any punitive, compensatory, or general damages re-
 10 coverable under any State or Federal law.

11 **SEC. 4. LIABILITY EXEMPTION FOR BUSINESSES AND**
 12 **COVID–19 MEDICAL ENTITIES.**

13 (a) IN GENERAL.—During the covered period, no
 14 business or COVID–19 medical entity shall be liable for
 15 any damages arising from a claim arising from or relating
 16 from an individual’s contracting of COVID–19 if the busi-
 17 ness or COVID–19 medical entity was—

18 (1) operating in a fashion consistent with any
 19 applicable State or Federal guidelines or require-
 20 ments on reopening; and

21 (2) using measures outlined by the Center for
 22 Disease Control and Prevention any other State or
 23 Federal agency to mitigate the potential spread of
 24 COVID–19, including requiring individuals to wear

1 face coverings, sanitizing the workplace, practicing
2 social distancing, and using temperature checks.

3 (b) EXCEPTION.—Subsection (a) shall not apply to
4 a business or COVID–19 medical entity that a court has
5 determined to have acted grossly negligent.

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