

By: Representatives Zuber, Eubanks, Brown
(20th), Mickens

To: Rules

HOUSE BILL NO. 1783

1 AN ACT TO CREATE THE MISSISSIPPI BACK TO BUSINESS LIABILITY
2 ASSURANCE ACT; TO DEFINE DUTY OF CARE FOR PREMISES OWNERS; TO
3 PROVIDE LIABILITY PROTECTION FOR INDIVIDUALS, STATE AND LOCAL
4 GOVERNMENT, ASSOCIATIONS, FOR-PROFIT AND NONPROFIT ENTITIES,
5 RELIGIOUS AND CHARITABLE ORGANIZATIONS; TO PROVIDE SAFE HARBOR FOR
6 COMPLIANCE WITH PUBLIC HEALTH GUIDANCE; TO PROVIDE LIABILITY
7 PROTECTION FOR PRODUCTS MADE, SOLD, OR DONATED IN RESPONSE TO
8 COVID-19 AND RELATED CIRCUMSTANCES; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** This act shall be known and may be cited as

11 "Mississippi Back to Business Liability Assurance Act."

12 **SECTION 2.** As used in this act, the following words shall
13 have the following meaning:

14 (1) "COVID-19" means the novel coronavirus identified as
15 SARS-CoV-2, the disease, health condition or threat caused by the
16 novel coronavirus SARS-CoV-2, or a virus mutating therefrom, and
17 conditions associated with the disease.

18 (2) "COVID-19 State of Emergency" means the State of
19 Emergency declared by executive order of the Governor of the State
20 of Mississippi on March 14, 2020, and any subsequent orders or
21 amendments thereto.



(3) "Disinfecting or cleaning supplies" includes, but is not limited to, hand sanitizers, cleaners, disinfectants, sprays, and wipes intended for use in removal or mitigation of bacterial or viral disease causing agents from surfaces or spaces.

(4) "First responder" means state and local law enforcement personnel, fire department personnel, emergency medical personnel, emergency management personnel and public works personnel who may be deployed in response to the COVID-19 State of Emergency.

(5) "Person" means an individual, state and political subdivision as defined in Section 11-46-1, association, educational entity, for-profit or nonprofit entity, religious organization, or charitable organization.

(6) "Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators, or other equipment designed to protect the wearer from the spread of infection or illness.

(7) "Premises" means any physical place serving a commercial, residential, educational, religious, governmental, cultural, charitable, or health care purpose.

(8) "Public Health Guidance" means written guidance related to the COVID-19 State of Emergency, issued by an executive agency or regulatory agency of the federal government or an executive agency of the State of Mississippi.

(9) "Qualified product" means personal protective equipment used to protect the wearer from COVID-19 or the spread of



COVID-19; medical devices, equipment, and supplies used to treat a person with COVID-19 including products that are used or modified for an unapproved use to treat COVID-19 or prevent the spread of COVID-19; medical devices, equipment, or supplies utilized outside of the product's normal use to treat a person with COVID-19 or to prevent the spread of COVID-19; medications used to treat COVID-19 including medications prescribed or dispensed for off-label use to attempt to combat COVID-19; tests to diagnose or determine immunity to COVID-19 which have been approved by or submitted to the Federal Drug Administration ("FDA") for approval within FDA prescribed time periods; and components of qualified products.

SECTION 3. (1) Except as otherwise provided by this section, an owner, lessee, occupant or any other person in control of a premises, who attempts, in good faith, to follow any applicable public health guidance and directly or indirectly invites or permits any person onto a premises shall be immune from suit for civil damages for any injuries sustained from exposure to COVID-19.

(2) This section shall not apply if damages, injuries or death resulted from or related to the actual or alleged exposure to COVID-19, is shown by clear and convincing evidence to be the result of actual malice, or willful or intentional misconduct.

(3) No person who attempts, in good faith, to follow applicable public health guidance shall be found to have committed



71 actual malice, or willful or intentional misconduct under this
72 section.

73 (4) Failure to comply with public health guidance alone
74 shall not be sufficient to establish that a person committed
75 actual malice, willful or intentional misconduct under this
76 section.

77 (5) Nothing in this section (a) creates, recognizes or
78 ratifies a claim or cause of action of any kind; (b) eliminates a
79 required element of any claim; (c) affects workers' compensation
80 law, including the exclusive application of such law; or (d)
81 amends, repeals, alters, or affects any other immunity or
82 limitation of liability.

83 **SECTION 4.** (1) Except as otherwise provided by this
84 section, any person that designs, manufactures, labels, sells,
85 distributes, or donates a qualified product in response to
86 COVID-19, shall be immune from suit for civil damages for any
87 injuries resulting from or related to actual or alleged exposure
88 or potential exposure to COVID-19 allegedly caused by a qualified
89 product.

90 (2) Except as otherwise provided by this section, any person
91 that designs, manufactures, labels, sells, distributes, or donates
92 cleaning or disinfecting supplies or personal protective equipment
93 in response to COVID-19, that does not make such products in the
94 ordinary course of the person's business shall be immune from suit
95 for civil damages for any injuries resulting from or related to



actual or alleged exposure or potential exposure to COVID-19
caused by a qualified product.

(3) The limitations on liability provided in this section shall not apply where plaintiff shows, by clear and convincing evidence, that any person, or any employee or agent thereof, engaged in actual malice, or willful or intentional misconduct.

(4) Nothing in this section (a) creates, recognizes or ratifies a claim or cause of action of any kind; (b) eliminates a required element of any claim; (c) affects workers' compensation law, including the exclusive application of such law; or (d) amends, repeals, alters, or affects any other immunity or limitation of liability.

SECTION 5. Nothing in this act shall be construed to preempt, remove, or limit any applicable defense or immunity from civil liability otherwise available.

SECTION 6. A person must bring suit for any alleged injury arising from COVID-19, not later than two (2) years after the day the cause of action accrues, except as otherwise provided in Section 11-46-11.

SECTION 7. This act shall provide immunity from suit for the acts and omissions stated herein occurring during the COVID-19 State of Emergency as defined in Section 2 of this act.

SECTION 8. This act shall take effect and be in force from and after its passage.

