

Atlantic Corporate Center  
2317 Route 34, Suite 2B  
Manasquan, NJ 08726  
732-201-4133  
CHIEF EXECUTIVE OFFICER: Thomas B. Considine



PRESIDENT: Rep. Matt Lehman, IN  
VICE PRESIDENT: Asm. Ken Cooley, CA  
TREASURER: Asm. Kevin Cahill, NY  
SECRETARY: Rep. Joe Fischer, KY

IMMEDIATE PAST PRESIDENTS:  
Sen. Jason Rapert, AR  
Sen. Travis Holdman, IN

## National Council of Insurance Legislators (NCOIL)

### COVID-19 Limited Immunity Model Act

---

*\*Sponsored by Rep. Bart Rowland (KY)*

*\*Co-Sponsored by Rep. Matt Lehman (IN)*

*\*Adopted by the Property & Casualty Insurance Committee on February 19, 2021.*

*\*To be considered for adoption by the NCOIL Executive Committee on April 18, 2021.*

#### **Section 1. Title**

This Act shall be known and may be cited as the “[State] COVID-19 Limited Immunity Act.”

#### **Section 2. Definitions**

(A) “Arising from COVID-19” means an injury or harm caused by or resulting from:

- (1) the actual, alleged, or possible exposure to or contraction of COVID-19; or
- (2) services, treatment, or other actions performed, not performed, or delayed in response to COVID-19.
- (3) The term “arising from COVID-19” includes:
  - (a) the implementation of policies and procedures to prevent or minimize the spread of COVID-19;
  - (b) testing;
  - (c) monitoring, collecting, reporting, tracking, tracing, disclosing, or investigating COVID-19 exposure or other COVID-19 related information;

(d) using, designing, manufacturing, providing, donating, or servicing precautionary, diagnostic, collection, or other health equipment or supplies, including personal protective equipment;

(e) closing or partially closing to prevent or minimize the spread of COVID-19;

(f) delaying or modifying the schedule or performance of any medical procedure; and

(g) providing services or products in response to government appeal of repurposing operations to address an urgent need for personal protective equipment, sanitation products, or other products necessary to protect the public.

(B) "COVID-19" refers to any of the following:

(1) The novel coronavirus known as SARS-CoV-2;

(2) Any mutation of SARS-CoV-2;

(3) The coronavirus disease 2019.

(C) "Person" means any entity recognized in this state and shall include but not be limited to an individual, corporation, limited liability company, partnership, trust, association, church or religious organization, city, county, public or private school district, college, university or other institution of higher education, or other unit of local government.

### **Section 3. Limited Immunity from Liability**

(A) Notwithstanding any other statute to the contrary, any person who acts in good faith in the course of or through the performance or provision of the person's business operations or on the premises owned or operated by the person shall be immune from civil liability for ordinary negligence for any personal injury or death arising from COVID-19, if the person acts as an ordinary, reasonable, and prudent person would have acted under the same or similar circumstances. For purposes of this subsection, ordinary, reasonable, and prudent shall include the adoption of safety measures as set forth in subsection (B) of this Section.

(B) Notwithstanding any other statute to the contrary, there shall be a rebuttable presumption that the safety measures adopted by any person, as defined in Section 2(C) of this Act, are reasonable, as used in subsection (A) of this Section, if those measures conform to the Centers for Disease Control and Prevention guidelines in existence at the

time of the alleged exposure. For purposes of this Section, the rebuttable presumption does not alter the applicable standard of care for medical, legal, or other negligence cases.

(C) Immunity as described in this section shall not apply to acts or omissions that constitute an intentional tort or willful or reckless misconduct as defined in [State Tort Code].

(D) Nothing in this Act shall be construed to modify the application of [State] worker's compensation laws.

(E) The immunity provided in this section is in addition to any other immunity protection that may apply in state or federal law.

#### **Section 4. Effective Date**

An emergency existing therefor, which emergency is hereby declared to exist, this Act shall be in full force and effect on and after its passage and approval.

#### **Section 5. Sunset Date**

The provisions of Section 3 of this Act shall be null, void, and of no force and effect on and after [        ].