

HB 255 - AS INTRODUCED

2021 SESSION

21-0036

04/08

HOUSE BILL **255**

AN ACT relative to limited liability for institutions of higher education and businesses.

SPONSORS: Rep. Ladd, Graf. 4; Rep. Steven Smith, Sull. 11; Rep. Aron, Sull. 7; Rep. Shaw,
 Hills. 16

COMMITTEE: Education

ANALYSIS

This bill establishes a limitation on liability for an institution of higher education or a business, for personal injury resulting from or related to the actual or alleged exposure to coronavirus or COVID-19.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to limited liability for institutions of higher education and businesses.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Sections; Limited Liability for Institutions of Higher Education and Businesses for
2 Personal Injury Resulting From or Relating to COVID-19. Amend RSA 508 by inserting after section
3 22 the following new sections:

4 508:23 Limited Liability for Institutions of Higher Education for Personal Injury Resulting
5 From or Relating to COVID-19.

6 I. In this section:

7 (a) "Coronavirus" means the novel coronavirus that causes the disease COVID-19.

8 (b) "COVID-19" means the novel coronavirus disease 2019.

9 (c) "Gross negligence" means an act or omission that:

10 (1) When viewed objectively from the standpoint of the actor at the time of its
11 occurrence, involves an extreme degree of exposure to risk, considering the probability and
12 magnitude of the potential harm to others; and

13 (2) Of which the actor has actual, subjective awareness of the risk involved, but
14 nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

15 (d) "Institution of higher education" means any nonprofit institution of higher education
16 organized under the laws of, and operating with a principal place of business in, the state of New
17 Hampshire, whether public or private.

18 II. Except as provided in paragraph III, no institution of higher education, or individual
19 working for an institution of higher education, shall be liable for personal injury resulting from or
20 related to the actual or alleged exposure to coronavirus or COVID-19 in the course of such
21 institution's activity, or in the course of working for such institution in any capacity, provided that in
22 the performance of its activity at the time of alleged or actual exposure, the institution was relying
23 on and generally following applicable government standards and guidance related to coronavirus or
24 COVID-19 exposure.

25 III. Paragraph II of this section shall not apply to any personal injury resulting from or
26 related to the actual or alleged exposure to coronavirus or COVID-19 if the individual alleging the
27 injury proves by clear and convincing evidence that the injuries were caused by the institution's:

28 (a) Gross negligence;

29 (b) Willful misconduct;

30 (c) Intentional criminal misconduct; or

31 (d) Intentional infliction of harm.

1 IV. Any individual claiming to have suffered personal injury as a result of exposure to
2 coronavirus or COVID-19 shall prove by clear and convincing evidence that the institution was the
3 proximate cause of the injuries allegedly suffered.

4 V. Any suit for any alleged injury arising from coronavirus or COVID-19 shall be
5 commenced not later than one year after the day the cause of action accrues.

6 VI.(a) Nothing in this section shall be construed to create a new cause of action or expand
7 any liability otherwise imposed, limit any defense, or affect the applicability of any law that affords
8 greater protections to defendants than are provided in this section.

9 (b) Nothing in this section shall be construed to affect an individual's rights under RSA
10 281-A, relative to workers' compensation benefits.

11 508:24 Limited Liability for Businesses for Personal Injury Resulting From or Relating to
12 COVID-19.

13 I. In this section:

14 (a) "Business" means an organization or enterprising entity engaged in commercial,
15 industrial, or professional activities. Businesses may be for-profit entities or non-profit
16 organizations that operate to fulfill a charitable mission or further a social cause.

17 (b) "Coronavirus" means the novel coronavirus that causes the disease COVID-19.

18 (c) "COVID-19" means the novel coronavirus disease 2019.

19 (d) "Gross negligence" means an act or omission that:

20 (1) When viewed objectively from the standpoint of the actor at the time of its
21 occurrence, involves an extreme degree of exposure to risk, considering the probability and
22 magnitude of the potential harm to others; and

23 (2) Of which the actor has actual, subjective awareness of the risk involved, but
24 nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

25 II. Except as provided in paragraph III, no business, or individual employed by a business,
26 shall be liable for personal injury resulting from or related to the actual or alleged exposure to
27 coronavirus or COVID-19 in the course of such institution's activity, or in the course of working for
28 such business in any capacity, provided that in the performance of its activity at the time of alleged
29 or actual exposure, the business was relying on and generally following applicable government
30 standards and guidance related to coronavirus or COVID-19 exposure.

31 III. Paragraph II of this section shall not apply to any personal injury resulting from or
32 related to the actual or alleged exposure to coronavirus or COVID-19 if the individual alleging the
33 injury proves by clear and convincing evidence that the injuries were caused by the business's:

34 (a) Gross negligence;

35 (b) Willful misconduct;

36 (c) Intentional criminal misconduct; or

37 (d) Intentional infliction of harm.

1 IV. Any individual claiming to have suffered personal injury as a result of exposure to
2 coronavirus or COVID-19 shall prove by clear and convincing evidence that the business was the
3 proximate cause of the injuries allegedly suffered.

4 V. Any suit for any alleged injury arising from coronavirus or COVID-19 shall be
5 commenced not later than one year after the day the cause of action accrues.

6 VI.(a) Nothing in this section shall be construed to create a new cause of action or expand
7 any liability otherwise imposed, limit any defense, or affect the applicability of any law that affords
8 greater protections to defendants than are provided in this section.

9 (b) Nothing in this section shall be construed to affect an individual's rights under RSA
10 281-A, relative to workers' compensation benefits.

11 2 Applicability. The provisions of this act shall apply to any claim for personal injury resulting
12 from or related to coronavirus or COVID-19 arising on or after March 13, 2020.

13 3 Effective Date. This act shall take effect upon its passage.