#### SB 63 - AS INTRODUCED

## 2021 SESSION

21-0828 05/04

SENATE BILL 63

AN ACT relative to business liability protection for exposure to coronavirus and COVID-19.

SPONSORS: Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. Carson, Dist 14; Sen. Gannon,

Dist 23; Sen. Morse, Dist 22; Rep. L. Ober, Hills. 37; Rep. Weyler, Rock. 13; Rep.

Edwards, Rock. 4; Rep. Stapleton, Sull. 5

COMMITTEE: Commerce

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## **ANALYSIS**

This bill limits the liability of business organizations for claims based on exposure to COVID-19.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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(a) Gross negligence;

(b) Willful misconduct:

(c) Intentional criminal misconduct; or

relative to business liability protection for exposure to coronavirus and COVID-19.

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

1 1 New Chapter; Limited Liability for Coronavirus Exposure. Amend RSA by inserting after 2 chapter 546-B the following new chapter: 3 CHAPTER 546-C LIMITED LIABILITY FOR CORONAVIRUS EXPOSURE 4 546-C:1 Definitions. In this chapter: 5 I. "COVID-19" and "coronavirus" mean: 6 7 (a) Severe acute respiratory syndrome coronavirus 2; or 8 (b) Any ailment or disease caused or exacerbated by severe acute respiratory syndrome 9 coronavirus 2. 10 II. "Gross negligence" means means an act or omission that, when viewed objectively from 11 the standpoint of the actor at the time of its occurrence, creates risk to third parties by knowingly operating in violation of published government COVID-19 guidance in effect at the time of the 12 13 alleged act. 14 III. "Business organization" means any enterprise, whether corporation, partnership, 15 limited liability company, proprietorship, association, business trust, real estate trust or other form 16 of organization that is carrying on any business activity within the state regardless of whether it is 17 (1) organized for gain or profit, or (2) organized as a nonprofit or tax-exempt organization. 546-C:2 Limitation of Liability for Exposure to Coronavirus and COVID-19. Notwithstanding 18 19 any other provision of law to the contrary and except as provided in RSA 546-C:3, as a matter of law, 20 no business organization shall be liable for personal injury resulting from or related to an actual or 21alleged exposure to coronavirus in the course of such business organization's business activity, or in 22the course of working for such business organization in any capacity, provided that in the 23 performance of its business activity at the time of alleged or actual exposure, the business 24organization was following applicable government standards and guidance related to coronavirus 25 exposure. 26 546-C:3 Liability Exceptions. RSA 546-C:2 shall not apply if the person alleging personal injury 27 resulting from or related to the actual or alleged exposure to coronavirus proves by clear and 28 convincing evidence that the injuries were the result of:

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1	(d) Intentional infliction of harm.
2	546-C:4 Causation. Any person claiming to have suffered personal injury as a result of exposure
3	to COVID-19 shall prove by clear and convincing evidence that the defendant was the proximate
4	cause of the injuries allegedly suffered.
5	546-C:5 Statute of Limitations. Any suit for any alleged injury arising from COVID-19 shall be
6	commenced not later than one year after the day the cause of action accrues.
7	546-C:6 Construction. Nothing in this chapter shall be construed to create a new cause of action
8	or expand any liability otherwise imposed, limit any defense, or affect the applicability of any law
9	that affords greater protections to defendants that are provided in this chapter.
10	546-C:7 Effect on Other Laws. Nothing in this chapter shall affect a person's rights under RSA
11	281-A.
12	2 Effective Date. This act shall take effect upon its passage.