

**AMENDMENT TO AMERICAN RESCUE PLAN ACT
OF 2021**

OFFERED BY MR. GRAVES OF LOUISIANA

At the end of title IX, insert the following new sub-
title:

1 **Subtitle J—Get America Back to**
2 **Work**

3 **SEC. 9901. LIMITATION ON LIABILITY.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (c), no person shall be liable in any civil action for the
6 spread or possible transmission of SARS–COV–2 caused
7 by an act or omission of the person acting in good faith
8 between January 1, 2020, and the date that is 18 months
9 after the end of the emergency period (as defined in sec-
10 tion 1135(g)(1)(B) of the Social Security Act (42 U.S.C.
11 1320b–5(g)(1)(B))).

12 (b) PREEMPTION.—The laws of a State or any polit-
13 ical subdivision of a State are hereby preempted to the
14 extent such laws are inconsistent with this section, unless
15 such laws provide greater protection from liability.

16 (c) EXCEPTIONS.—Subsection (a) does not apply if
17 the harm is shown, by clear and convincing evidence, to
18 be caused by an act or omission constituting willful or

1 criminal misconduct, reckless misconduct, gross neg-
2 ligence, or a conscious flagrant indifference to the rights
3 or safety of the individual harmed by the person. For pur-
4 poses of this section, infection with SARS-COV-2 may
5 not be the basis for damages arising from bodily injury
6 except to the extent that such injury is serious bodily in-
7 jury.

8 (d) DEFINITIONS.—In this section:

9 (1) PERSON.—The term “person” includes—

10 (A) one or more individuals, business
11 trusts, legal representatives, corporations, com-
12 panies, associations, firms, partnerships, soci-
13 eties, joint stock companies, universities,
14 schools, nonprofit organizations, or religious or-
15 ganizations; or

16 (B) any organized group of entities de-
17 scribed in subparagraph (A).

18 (2) GOOD FAITH.—The term “good faith”
19 means making reasonable efforts to act in compli-
20 ance with—

21 (A) applicable guidance from a Federal,
22 State, local, territorial, or Tribal public health
23 authority; or

24 (B) appropriate professional or industry
25 standards, recommendations, or guidance.

1 (3) SERIOUS BODILY INJURY.—The term “seri-
2 ous bodily injury” means—

3 (A) death or injury requiring in-patient
4 hospitalization of at least 48 hours;

5 (B) permanent impairment of a bodily
6 function; or

7 (C) permanent damage to a body struc-
8 ture.

9 (e) APPLICABILITY.—The limitation in this section
10 shall be applicable in cases filed before, on, or after the
11 date of enactment of this Act.

12 (f) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion may be construed as superseding or weakening any
14 Federal statute or other provision of Federal law that pre-
15 empts the authority or actions of a State, territory, a polit-
16 ical subdivision of a State or territory, or an Indian Tribe
17 to regulate the practices or services of certain businesses
18 or industries.

19 **SEC. 9902. LIMITATION ON LIABILITY FOR HEALTH CARE**
20 **PROFESSIONALS DURING COVID-19 EMER-**
21 **GENCY RESPONSE.**

22 (a) LIMITATION ON LIABILITY.—Except as provided
23 in subsection (b), a provider of health care services, includ-
24 ing a health care professional, shall not be liable under
25 Federal or State law for the spread or possible trans-

1 mission of SARS–COV–2 caused by an act or omission
2 of the provider in the provision of health care services act-
3 ing in good faith between January 1, 2020, and the date
4 that is 18 months after the end of the emergency period
5 (as defined in section 1135(g)(1)(B) of the Social Security
6 Act (42 U.S.C. 1320b–5(g)(1)(B))), if—

7 (1) the provider is providing health care serv-
8 ices significantly impacted by, or in response to, the
9 COVID–19 pandemic; and

10 (2) the act or omission—

11 (A) occurs in the course of providing
12 health care services that are within the scope of
13 the license, registration, or certification of the
14 professional, as defined by the State of licen-
15 sure, registration, or certification;

16 (B) does not exceed the scope of license,
17 registration, or certification of a substantially
18 similar health professional in the State in which
19 such act or omission occurs; and

20 (C) is undertaken in a good faith belief
21 that the individual being treated is in need of
22 health care services.

23 (b) EXCEPTIONS.—Subsection (a) does not apply if—

24 (1) the harm is shown, by clear and convincing
25 evidence, to be caused by an act or omission of the

1 provider of health care services constituting willful
2 or criminal misconduct, reckless misconduct, gross
3 negligence, or a conscious flagrant indifference to
4 the rights or safety of the individual harmed by the
5 health care professional; or

6 (2) the provider of health care services rendered
7 the health care services under the influence (as de-
8 termined pursuant to applicable State law) of alcohol
9 or an intoxicating drug.

10 (c) PREEMPTION.—The laws of a State or any polit-
11 ical subdivision of a State are hereby preempted to the
12 extent such laws are inconsistent with this section, unless
13 such laws provide greater protection from liability.

14 (d) DEFINITIONS.—In this section—

15 (1) The term “good faith” means making rea-
16 sonable efforts to act in compliance with—

17 (A) applicable guidance from a Federal,
18 State, local, territorial, or Tribal public health
19 authority; or

20 (B) appropriate professional or industry
21 standards, recommendations, or guidance.

22 (2) The term “health care professional” means
23 an individual who is licensed, registered, certified, or
24 otherwise authorized under a Federal or State law
25 to provide health care services.

1 (3) The term “health care services” means any
2 service provided by a health care professional, or by
3 any individual working under the supervision of a
4 health care professional, that relates to the diag-
5 nosis, prevention, or treatment of COVID–19.

6 **SEC. 9903. OCCUPATIONAL SAFETY OR HEALTH HAZARD**
7 **EXEMPTION.**

8 The Occupational Safety and Health Act of 1970 (29
9 U.S.C. 651 et seq.) is amended—

10 (1) in section 9 (29 U.S.C. 658)—

11 (A) subsection (a), by striking “If, upon
12 inspection” and inserting “Except as provided
13 in subsection (d), if, upon inspection”; and

14 (B) by adding at the end the following new
15 subsection:

16 “(d) COVID–19 EXEMPTION.—

17 “(1) IN GENERAL.—For the period specified in
18 paragraph (3), the Secretary may not exercise au-
19 thority pursuant to subsection (a) to issue a citation
20 with respect to a violation related to the spread or
21 possible transmission of SARS–COV–2 in the work-
22 place if the Secretary determines that the employer
23 acted in good faith.

1 “(2) GOOD FAITH DEFINED.—The term ‘good
2 faith’ has the meaning given such term in section
3 2(d) of the Get America Back to Work Act.

4 “(3) PERIOD SPECIFIED.—The period specified
5 in this paragraph is the period beginning on Janu-
6 ary 1, 2020, and ending on the date that is 18
7 months after the end of the emergency period (as
8 defined in section 1135(g)(1)(B) of the Social Secu-
9 rity Act (42 U.S.C. 1320b–5(g)(1)(B))).”; and
10 (2) in section 17 (29 U.S.C. 666)—

11 (A) in subsection (a), by striking “Any em-
12 ployer who willfully” and inserting “Except as
13 provided in subsection (m), any employer who
14 willfully”;

15 (B) in subsection (e), by striking “Any em-
16 ployer who willfully” and inserting “Except as
17 provided in subsection (m), any employer who
18 willfully”; and

19 (C) by adding at the end the following new
20 subsection:

21 “(m) COVID–19 EXEMPTION.—For the period speci-
22 fied in section 9(d)(3), with respect to the spread or pos-
23 sible transmission of SARS–COV–2 in the workplace, no
24 employer who acted in good faith (as defined in section

1 2(d) of the Get America Back to Work Act) shall be sub-
2 ject to penalties under subsection (a) or subsection (e).”.

