SENATE BILL NO. 1023

July 23, 2020, Introduced by Senators HORN, THEIS, MACGREGOR and SCHMIDT and referred to the Committee on Economic and Small Business Development.

A bill to amend 1974 PA 154, entitled "Michigan occupational safety and health act,"
(MCL 408.1001 to 408.1094) by adding section 85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 85. (1) Notwithstanding any other provision of this act, and except as otherwise provided in subsection (2), an employer is not liable for damages that result from the exposure of an employee to COVID-19 if all of the following conditions are met:
(a) The employee was exposed to COVID-19 during the COVID-19 emergency.

(b) The employer was operating in substantial compliance or reasonably consistent with a federal or state statute or regulation, executive order, or public health guidance that was relevant to, and applicable at the time of, the exposure. If more than 1 public health guidance applied to the employer at the time of the exposure, the requirements of this subdivision are satisfied if the employer was operating in substantial compliance or reasonably consistent with any applicable public health guidance.

(2) Subsection (1) does not apply if the employer wilfully exposed the employee to COVID-19.

(3) This section does not do any of the following:

(a) Create, recognize, or ratify a claim or cause of action of any kind.

(b) Eliminate a required element of a claim of any kind including, but not limited to, a causation or proximate cause element.

(c) Amend, repeal, alter, or affect any other immunity or limitation of liability.

(4) This section applies retroactively to an exposure to COVID-19 that occurs after January 1, 2020.

(5) As used in this section:

(a) "COVID-19" means the novel coronavirus identified as SARS-CoV-2 or a virus mutating from SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2, and conditions associated with the disease.

(b) "COVID-19 emergency" means the state of emergency declared under 1945 PA 302, MCL 10.31 to 10.33, or the emergency management
act, 1976 PA 390, MCL 30.401 to 30.421, on March 10, 2020, and any
subsequent orders or amendments to those orders.

(c) "Public health guidance" means written guidance related to
COVID-19 issued by the Centers for Disease Control and Prevention
or the federal Occupational Safety and Health Administration, or by
the department of health and human services or another agency of
this state.

(d) "Wilful" means that term as defined in section 6.

Enacting section 1. This amendatory act does not take effect
unless all of the following bills of the 100th Legislature are
enacted into law:

(a) Senate Bill No. 1024.

(b) Senate Bill No. 1022.