

STATEMENT

AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION (APCIA)

H.B. No. 5125 – AN ACT CONCERNING THE PROVISION OF IMMUNITY FROM CIVIL LIABILITY FOR ENTITIES THAT HAVE OPERATED PURSUANT TO HEALTH AND SAFETY GUIDELINES DURING THE COVID-19 PANDEMIC

JUDICIARY COMMITTEE

March 22, 2021

The American Property Casualty Insurance Association (APCIA)¹ appreciates the opportunity to comment on House Bill No. 5125, An Act Concerning the Provision of Immunity from Civil Liability for Entities that Have Operated Pursuant to Health and Safety Guidelines During the COVID-19 Pandemic. With members comprising nearly 60 percent of the U.S. property casualty insurance market, APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association.

HB 5125 is a straightforward, commonsense response to the COVID-19 Pandemic and APCIA strongly supports this bill. APCIA and its members are proud to insure the many private sector actors and responders supporting our nation's efforts to fight and recover from this unprecedented pandemic.

The private sector is actively engaged as an indispensable partner in the response to COVID-19. From health care to transportation to property owners to manufacturers and more, many private sector participants are in the fight against this virus. In many instances they have volunteered in the effort. The private sector is acting under local, state and federal emergency orders and directives.

Nonetheless, unlike their government partners, private sector responders and actors do not have the force and authority of the government to act and do not have immunity from liability even when acting in good faith to advance the COVID-19 response and recovery. As a result, we are already seeing news reports of aggressive trial lawyer litigation aimed at private parties even when acting in good faith in an unprecedented catastrophe with shifting goals and strategies. Lawsuits have already been filed against airlines, software companies, cruise lines, shopping centers, manufacturers, hotels, nursing homes, medical providers, universities, schools, drug companies, and even the federal and governments themselves. According to one leading law firm's COVID Complaint Tracker² nearly 9000 pandemic related lawsuits have already been filed, over 100 of them in Connecticut. This is

¹ Effective January 1, 2019, the American Insurance Association (AIA) and the Property Casualty Insurers Association of America (PCIAA) merged to form the American Property Casualty Insurance Association (APCIA). Representing nearly 60 percent of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

² <https://www.huntonak.com/en/covid-19-tracker.html>

even as the Courts have been closed, and with statutes of limitation that permit years in which litigation can be brought.

Medical providers, schools, healthcare facilities, property owners, manufacturers, restaurants, grocers, volunteers and more simply should not be looking over their shoulders for a lawsuit when acting reasonably in an unprecedented global pandemic. The protections in this bill will encourage, rather discourage efforts to improve safety from the virus as the protections are only available if the defendant “substantially complied with applicable health and safe operation guidelines.” This bill will help prevent a second crisis of unreasonable liability litigation when the health crisis passes. Notwithstanding that, the protections in the package are measured and do not protect the grossly negligent, the criminal, the fraudster, or malignant actor. They will only extend to those acting appropriate under unprecedented circumstances.

Connecticut is not alone in considering this important need. Forty states have already acted to reduce unreasonable litigation exposures arising out of COVID-19. HB 5125 is measured, appropriate and limited. It will assist in the recovery we are all working toward without limiting the ability of the truly harmed to pursue their claims of injury.

For the foregoing reasons, APCIA urges your Committee to favorably advance this bill.

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American Property Casualty Insurance Association