Amend the amendment, H-8173, to Senate File 2338, as passed by the Senate, as follows:

1. By striking page 1, line 2, through page 7, line 18, and inserting:
   
   DIVISION I

   ESSENTIAL WORKERS

   Sec. ___. Section 85A.3, Code 2020, is amended to read as follows:

   85A.3 Employees covered.

   All employees as defined by the workers' compensation law of Iowa, and as further defined by this section, employed in any business or industrial process hereinafter designated and described and who in the course of their employment are exposed to an occupational disease as herein defined are subject to the provisions of this chapter. For purposes of this section, "employee" means the following individuals, whether engaged by an employer as an employee or independent contractor:

   1. A worker licensed or certified under chapter 147, 147A, 148, 148A, 148C, 149, 151, 152, 153, 154, 154B, 154F, or 155A to provide in this state professional health care service to an individual during that individual's medical care, treatment, or confinement.

   2. A worker providing emergency services, including fire fighting, police, ambulance, emergency medical services, or hazardous materials response services.

   3. A worker providing sanitation services.

   4. A worker at a business which the state or a political subdivision of the state has determined must remain open to serve the public during the public health disaster emergency proclaimed by the governor on March 17, 2020.

   5. Any other worker who cannot work remotely during the public health disaster emergency proclaimed by the governor on March 17, 2020.
Sec. ___. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

OCCUPATIONAL DISEASE

<Sec. ___. NEW SECTION. 85A.9 Occupational disease — COVID-19 virus exposure.

1. Notwithstanding section 85A.8, an employee, as described in section 85A.3, who contracts the COVID-19 virus and who alleges the employee's employment has subjected the employee to an increased risk of exposure to the COVID-19 virus is presumed to have an occupational disease arising out of and in the course of employment if the requirements of subsection 2 are met.

2. An employee is presumed to have an occupational disease arising out of and in the course of employment if the employee's contraction of the COVID-19 virus is confirmed by a positive laboratory test or, if a laboratory test is not available for the employee, as diagnosed and documented by the employee's licensed physician, licensed physician assistant, or licensed advanced registered nurse practitioner based upon the employee's symptoms. The employee shall provide a copy of the positive laboratory test or the written documentation of the diagnosis to the employer or the employer's insurance carrier.

3. If the employee has met the requirements of subsections 1 and 2, the presumption that the employee has an occupational disease arising out of and in the course of employment shall only be rebutted upon proof by the employer or the employer's insurance carrier that the employment did not pose an increased risk of exposure to the employee and that the employee's disease was caused by a nonoccupational exposure to the COVID-19 virus.

4. The date of injury for an employee who has contracted the COVID-19 virus under this section shall be the date that the employee was first unable to work due to symptoms of the COVID-19 virus, or the date the employee was first informed,
through a positive laboratory test or diagnosis, that the employee contracted the COVID-19 virus, whichever occurred first.

5. An employee who has contracted the COVID-19 virus but who is not entitled to the presumption provided under this section is not precluded from claiming an occupational disease as otherwise provided for in this chapter or from claiming a personal injury.

6. The commissioner shall provide a detailed report on workers' compensation claims due to the COVID-19 virus under this section to the workers' compensation advisory committee and the chairpersons and ranking members of the senate standing committee on labor and business relations and the house standing committee on labor by January 15, 2021.

Sec. ___. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. ___. APPLICABILITY. This division of this Act applies to employees, as described in section 85A.3, who contract the COVID-19 virus on or after the effective date of this Act.

DIVISION III
COVID-19 RELATED LIABILITY

Sec. ___. NEW SECTION. 686D.1 Short title.

This chapter shall be known and may be cited as the “COVID-19 Response, Back to Business, Worker Protection, Patient Protection, and Nursing Home Resident Protection Limited Liability Act”.

Sec. ___. NEW SECTION. 686D.2 Definitions.

When used in this chapter, unless the context otherwise requires:

1. “COVID-19” means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and conditions associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom.

2. “Disinfecting or cleaning supplies” means and includes
hand sanitizers, disinfectants, sprays, and wipes.

3. "Health care facility" means and includes all of the following:
   a. A facility as defined in section 514J.102.
   b. A facility licensed pursuant to chapter 135B.
   c. A facility licensed pursuant to chapter 135C.
   d. Residential care facilities, nursing facilities, intermediate care facilities for persons with mental illness, intermediate care facilities for persons with intellectual disabilities, hospice programs, elder group homes, and assisted living programs.

4. "Health care professional" means physicians and other health care practitioners who are licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care services in the ordinary course of business or in the practice of a profession, whether paid or unpaid, including persons engaged in telemedicine or telehealth. "Health care professional" includes the employer or agent of a health care professional who provides or arranges health care.

5. "Health care provider" means and includes a health care professional, health care facility, home health care facility, and any other person or facility otherwise authorized or permitted by any federal or state statute, regulation, order, or public health guidance to administer health care services or treatment.

6. "Health care services" means services for the diagnosis, prevention, treatment, care, cure, or relief of a health condition, illness, injury, or disease.


8. "Person" means the same as defined in section 4.1. "Person" includes an agent of a person.

9. "Personal protective equipment" means and includes protective clothing, gloves, face shields, goggles, facemasks,
respirators, gowns, aprons, coveralls, and other equipment designed to protect the wearer from injury or the spread of infection or illness.

10. "Premises" means and includes any real property and any appurtenant building or structure serving a commercial, residential, educational, religious, governmental, cultural, charitable, or health care purpose.

11. "Public health guidance" means and includes written guidance related to COVID-19 issued by any of the following:

   a. The centers for disease control and prevention of the federal department of health and human services.

   b. The centers for Medicare and Medicaid services of the federal department of health and human services.

   c. The federal occupational safety and health administration.

   d. The office of the governor.

   e. Any state agency, including the department of public health.

12. "Qualified product" means and includes all of the following:

   a. Personal protective equipment used to protect the wearer from COVID-19 or to prevent the spread of COVID-19.

   b. Medical devices, equipment, and supplies used to treat COVID-19, including medical devices, equipment, or supplies that are used or modified for an unapproved use to treat COVID-19 or to prevent the spread of COVID-19.

   c. Medical devices, equipment, and supplies used outside of their normal use to treat COVID-19 or to prevent the spread of COVID-19.

   d. Medications used to treat COVID-19, including medications prescribed or dispensed for off-label use to attempt to treat COVID-19.

   e. Tests to diagnose or determine immunity to COVID-19.

   f. Any component of an item described in paragraphs "a" through "e".
Sec. ___. NEW SECTION. 686D.3 Civil actions alleging COVID-19 exposure.

A person shall not bring or maintain a civil action alleging exposure or potential exposure to COVID-19 unless one of the following applies:

1. The civil action relates to a minimum medical condition.
2. The civil action involves an act that was intended to cause harm.
3. The civil action involves an act that constitutes actual malice.

Sec. ___. NEW SECTION. 686D.4 Premises owner's duty of care — limited liability.

A person who possesses or is in control of a premises, including a tenant, lessee, or occupant of a premises, who directly or indirectly invites or permits an individual onto a premises, shall not be liable for civil damages for any injuries sustained from the individual's exposure to COVID-19, whether the exposure occurs on the premises or during any activity managed by the person who possesses or is in control of a premises, if the person qualifies for the protection afforded by section 686D.5.

Sec. ___. NEW SECTION. 686D.5 Safe harbor for compliance with regulations, executive orders, or public health guidance.

A person in this state shall not be held liable for civil damages for any injuries sustained from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care was in substantial compliance or was consistent with any federal or state statute, regulation, order, or public health guidance related to COVID-19 that was applicable to the person or activity at issue at the time of the alleged exposure or potential exposure.

Sec. ___. NEW SECTION. 686D.6 Liability of health care providers.

A health care provider that qualifies for the protection afforded by section 686D.5 shall not be liable for civil
damages for causing or contributing, directly or indirectly, to
the death or injury of an individual as a result of the health
care provider's acts or omissions while providing or arranging
health care in support of the state's response to COVID-19.
This section shall apply to all of the following:
1. Injury or death resulting from screening, assessing,
   diagnosing, caring for, or treating individuals with a
   suspected or confirmed case of COVID-19.
2. Prescribing, administering, or dispensing a
   pharmaceutical for off-label use to treat a patient with a
   suspected or confirmed case of COVID-19.
3. Acts or omissions while providing health care to
   individuals unrelated to COVID-19 when those acts or omissions
   support the state's response to COVID-19, including any of the
   following:
   a. Delaying or canceling nonurgent or elective dental,
      medical, or surgical procedures, or altering the diagnosis or
      treatment of an individual in response to any federal or state
      statute, regulation, order, or public health guidance.
   b. Diagnosing or treating patients outside the normal scope
      of the health care provider's license or practice.
   c. Using medical devices, equipment, or supplies outside of
      their normal use for the provision of health care, including
      using or modifying medical devices, equipment, or supplies for
      an unapproved use.
   d. Conducting tests or providing treatment to any individual
      outside the premises of a health care facility.
Sec. ___. NEW SECTION. 686D.7 Supplies, equipment, and
products designed, manufactured, labeled, sold, distributed, and
 donated in response to COVID-19.
1. Any person that qualifies for the protection afforded
by section 686D.5 that designs, manufactures, labels, sells,
distributes, or donates household disinfecting or cleaning
supplies, personal protective equipment, or a qualified product
in response to COVID-19 shall not be liable in a civil action
alleging personal injury, death, or property damage caused by
or resulting from the design, manufacturing, labeling, selling,
distributing, or donating of the household disinfecting
or cleaning supplies, personal protective equipment, or a
qualified product.

2. Any person that designs, manufactures, labels, sells,
distributes, or donates household disinfecting or cleaning
supplies, personal protective equipment, or a qualified product
in response to COVID-19 shall not be liable in a civil action
alleging personal injury, death, or property damage caused by
or resulting from a failure to provide proper instructions or
sufficient warnings.

Sec. ___. NEW SECTION. 686D.8 Construction.
This chapter shall not be construed to affect the rights or
limits under workers’ compensation as provided in chapter 85,
85A, or 85B.

Sec. ___. NEW SECTION. 686D.9 Repeal.
This chapter is repealed December 31, 2022.

Sec. ___. RETROACTIVE APPLICABILITY. This division of this
Act applies retroactively to January 1, 2020.

2. Title page, by striking lines 1 through 4 and
inserting <An Act relating to COVID-19, including workers’
compensation claims arising from COVID-19, civil actions
related to COVID-19, and including effective date provisions,
applicability provisions, and retroactive applicability
provisions.>

______________________________
OURTH of Warren