Senate File 2338
Amend the House amendment, S-5111, to Senate File 2338, as passed by the Senate, as follows:

1. Page 1, after line 8 by inserting:

2. <Sec. ___. Section 88.3, subsection 3, Code 2020, is amended to read as follows:

3. "Emergency temporary standards" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the commissioner that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, and was formulated in a manner which afforded an opportunity for diverse views to be considered or is an emergency temporary standard provided by the secretary pursuant to and in conformance with the provisions of the federal law. "Emergency temporary standards" includes guidance related to the novel coronavirus identified as SARS-CoV-2 provided by the centers for disease control and prevention of the federal department of health and human services or by the federal occupational safety and health administration.

4. Sec. ___. Section 88.5, subsection 5, Code 2020, is amended to read as follows:

5. Emergency temporary standards. The commissioner shall provide for an emergency temporary standard to take immediate effect if the commissioner determines that employees are exposed to the novel coronavirus identified as SARS-CoV-2 or are exposed to grave danger from exposure from substances or agents determined to be toxic or physically harmful or from new hazards and if such emergency temporary standard is necessary to protect the employees from such danger. Such emergency standard shall cease to be effective and shall no longer be applicable after the lapse of six months following the effective date thereof unless the commissioner has initiated the procedures provided for under this chapter, for the purpose
of promulgating a permanent standard as provided in subsection 1 of this section in which case the emergency temporary standard will remain in effect until the permanent standard is adopted and becomes effective. Abandonment of the procedure for such promulgation by the commissioner shall terminate the effectiveness and applicability of the emergency temporary standard.

2. Page 4, after line 14 by inserting:

4. The person who possesses or is in control of the premises failed to comply with emergency temporary standards, as defined in section 88.3.

3. Page 4, by striking lines 20 through 24 and inserting

a duty of care was in compliance with emergency temporary standards, as defined in section 88.3, or 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.

4. Page 5, after line 30 by inserting:

3. This section shall not relieve any person of liability for civil damages for any act or omission that is not in compliance with emergency temporary standards, as defined in section 88.3.

5. Page 6, after line 33 by inserting:

c. The person that designs, manufactures, labels, sells, distributes, or donates household disinfecting or cleaning supplies, personal protective equipment, or a qualified product did not comply with emergency temporary standards, as defined in section 88.3.

6. By renumbering as necessary.

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NATE BOULTON