

HOUSE No. 4659

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey N. Roy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect institutions that provide emergency aid in response to the outbreak of the 2019 novel coronavirus, also known as COVID-19.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>

HOUSE No. 4659

By Mr. Roy of Franklin, a petition (subject to Joint Rule 12) of Jeffrey N. Roy and others that certain institutions of higher education offering emergency aid be immune from suit and liability. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to protect institutions that provide emergency aid in response to the outbreak of the 2019 novel coronavirus, also known as COVID-19.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect institutions that provide emergency aid in response to the outbreak of the 2019 novel coronavirus, also known as COVID-19 , therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 231 of the General Laws is hereby amended inserting after section 85K, the
2 following section:-

3 Section 85K½ (a) As used in this section the following terms shall, unless the context
4 clearly requires otherwise, have the following meanings:-

5 “Emergency Aid” means goods, services, facilities, products, donations, and any other
6 form of assistance, including, but not limited to, support, assistance or relief, and access to, use
7 or lease of land, structures, buildings, personnel, or equipment lawfully owned or controlled by
8 the Institution, offered or provided in response to the outbreak of the 2019 novel coronavirus,

9 also known as COVID-19, and the governor’s March 10, 2020 declaration of a state of
10 emergency.

11 “Institution” means any public or independent institution of higher education located in
12 the commonwealth and authorized to grant degrees under any general or special law, and which
13 offers or provides emergency aid. It shall include the trustees, officers, employees, students,
14 volunteers, and other representatives or agents of such institution of higher education.

15 (b) Except in the case of willful, wanton or reckless misconduct, any Institution that, in
16 good faith, offers or provides Emergency Aid shall be immune from suit and liability (whether in
17 tort, contract, or otherwise) to any person, entity, or governmental body for any and all claims for
18 loss caused by, arising out of, relating to, or resulting from the administration to or the use by an
19 individual of any Emergency Aid. In no case shall an Institution be named or joined as a party to
20 any litigation or other legal or administrative proceeding related, directly or indirectly, to
21 Emergency Aid that it offered, designed, developed or provided. The immunity applies to any
22 claim for loss causally related to the administration or use by an individual of Emergency Aid,
23 including a causal relationship with the design, development, clinical testing or investigation,
24 manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale,
25 purchase, donation, dispensing, prescribing, administration, licensing, or use of such Emergency
26 Aid.

27 (c) Because of the critical need to respond to the outbreak of the 2019 novel coronavirus,
28 also known as COVID-19, and the state of emergency declared by the governor, this section
29 shall not be preempted, superseded, or nullified by federal law if this section provides greater
30 protection than federal law.