As part of their proposed stimulus package, Senators John Cornyn and Mitch McConnell introduced a bill that gives almost complete immunity protection to businesses that fail to take precautions against the coronavirus. It's called the "Safe to Work Act," but really should be called the "Work at Your Own Risk Act." McConnell says he won't bring a stimulus bill to the floor without it.

The McConnell immunity shield is truly draconian. It creates a whole series of hurdles that together make litigation against businesses nearly impossible. Here are the hurdles that the plaintiff must surmount:

1. Special pleading rules regarding the content of the complaint that will be difficult to satisfy.
2. Limitations on class actions.
3. An automatic right for defendants to move lawsuits to federal court to obtain a more sympathetic hearing.
4. An increased burden of proof (clear and convincing evidence).
5. A safe harbor against liability if the business makes some effort to comply with whatever state and local regulations apply.
6. An exemption for businesses that were negligent but not guilty of "gross negligence or willful misconduct."
7. Limited damages even if an injured party does somehow get that far in their lawsuit.

It's as if someone took every idea that anyone has ever had for restricting lawsuits and bundled them into one bill. Few if any lawsuits, however worthy, will be able to survive this gauntlet.

It's hard to understand this degree of overkill or the high priority placed on the bill by McConnell. So far as anyone can tell, less than 5% of lawsuits involving the coronavirus have involved personal injury or workplace risks. Some states have already passed partial immunity shields, making it all the more unclear why they should be forced on states that don't want them.

The rationale for the bill is supposed to be that businesses are afraid to open without this protection, but that's belied by the number of businesses that have opened across much of the country. In addition, it doesn't explain why the litigation shield lasts five years even if the emergency ends sooner. So why is this the top priority of the Chamber of Congress and a "must have" for McConnell?

One possibility is that they don’t really care about the provisions I’ve been discussing. There’s another part of the bill that undercuts federal statutory protections such as OSHA and requirements that the needs of the disabled be accommodated. The rest of the bill might be a red herring.

Another possibility is that they just want to establish a precedent for federal legislation restricting other types of lawsuits. Republicans have long wanted to kill lawsuits against negligent doctors and those against manufacturers of dangerous products. Maybe this bill is intended as a template.

A final possibility — and I think the most plausible — is that this bill is just part of the overall policy favored by Trump: reopen the economy as quickly as possible and without worrying about public health. The liability shield is a way of telling businesses not to worry too much about health precautions.

Clearly, if Senate Republicans devoted half as much attention to protecting Americans against the COVID virus as they’re devoting to protecting corporations from liability, we’d all be a lot safer. But I suppose that’s not a priority.