

GREEN SHEET REDIGEST

HB 826

2020 Regular Session

Pressly

LIABILITY: Provides relative to the limitations of liability due to the COVID-19 public health emergency

DIGEST

Proposed law provides that during the public health emergency declared during the outbreak of COVID-19, the following classes of persons shall not be civilly liable for any act or omission related thereto except in the event of gross negligence or willful and wanton misconduct:

- (1) Persons owning or controlling real estate who voluntarily and without compensation allow such real estate or premises to be used for the purpose of sheltering persons.
- (2) Persons who perform in contract with and under the direction of the state or its political subdivisions.
- (3) Persons who render assistance or advice at the request of the state or its political subdivisions.
- (4) Persons who gratuitously render emergency care.
- (5) Manufacturers, distributors, and users of personal protective equipment.

Proposed law provides that no person or local or state government or political subdivision thereof shall be liable for civil damages for injury or death resulting from exposure to COVID-19 in the course of or through the performance of a person's business operations unless it is proven that the person, government, or political subdivision was not in substantial compliance with applicable COVID-19 procedures.

Proposed law provides that when two or more sets of COVID-19 procedures apply to a business operation or to the use, dispensing, or administering of personal protective equipment, the responsible party need only substantially comply with one applicable set of procedures.

Proposed law provides that employees not covered by Worker's Compensation shall have no remedy in tort against their employer for exposure to COVID-19 unless caused by an intentional act.

Proposed law is retroactive to March 11, 2020.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 29:773)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

- 1. Add provisions relative to liability for the voluntary performance of public contracts, gratuitous emergency care, business operations, personal protective equipment, and the rights of employees.
- 2. Remove provisions relative to health care providers and persons who perform an action outside their usual scope of business.
- 3. Provide for retroactive application.

The House Floor Amendments to the engrossed bill:

1. Extend protections for business operations to those run by a state or local government or a political subdivision thereof.
2. Remove the burden of proof standard to establish substantial noncompliance with procedures applicable to business operations.
3. Require persons to comply with only one set of COVID-19 procedures for business operations and the use of personal protective equipment when multiple sets of procedures apply.
4. Clarify the classes of employers and persons potentially liable pursuant to the Louisiana Worker's Compensation Law.
5. Add technical amendments.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Add technical amendments.