

ACT No. 336

2020 Regular Session

HOUSE BILL NO. 826

BY REPRESENTATIVES PRESSLY, AMEDEE, BAGLEY, ROBBY CARTER, CREWS, EMERSON, FIRMENT, FREIBERG, FRIEMAN, GAROFALO, HARRIS, HORTON, LACOMBE, MCCORMICK, SEABAUGH, THOMAS, AND WHEAT

1 AN ACT

2 To enact R.S. 9:2800.25 and R.S. 29:773, relative to the limitation of liability; to provide for
3 the limitation of liability during the COVID-19 public health emergency; to provide
4 for the liability of certain property owners; to provide for the liability of certain
5 natural and juridical persons; to provide for the liability of state and local
6 governments and political subdivisions; to provide for liability related to the design,
7 manufacture, distribution, use, and administration of personal protective equipment;
8 to provide for the rights of employees; to provide for liability related to business
9 operations; to provide for claims pursuant to the Louisiana Workers' Compensation
10 Law; to provide for retroactive application; to provide an effective date; and to
11 provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 9:2800.25 is hereby enacted to read as follows:

14 §2800.25. Limitation of liability for COVID-19

15 A. No natural or juridical person, state or local government, or political
16 subdivision thereof shall be liable for any civil damages for injury or death resulting
17 from or related to actual or alleged exposure to COVID-19 in the course of or
18 through the performance or provision of the person's, government's, or political
19 subdivision's business operations unless the person, government, or political
20 subdivision failed to substantially comply with the applicable COVID-19 procedures
21 established by the federal, state, or local agency which governs the business

1 operations and the injury or death was caused by the person's, government's, or
2 political subdivision's gross negligence or wanton or reckless misconduct. If two or
3 more sources of procedures are applicable to the business operations at the time of
4 the actual or alleged exposure, the person, government, or political subdivision shall
5 substantially comply with any one applicable set of procedures.

6 B. No natural or juridical person, state or local government, or political
7 subdivision thereof, nor specifically a business event strategist, association meeting
8 planner, corporate meeting planner, independent trade show organizer or owner, or
9 any other entity hosting, promoting, producing or otherwise organizing an event of
10 any kind, shall be held liable for any civil damages for injury or death resulting from
11 or related to actual or alleged exposure to COVID-19 in the course of or through the
12 performance of hosting, promoting, producing or otherwise organizing, planning or
13 owning a tradeshow, convention, meeting, association produced event, corporate
14 event, sporting event, or exhibition of any kind, unless such damages were caused
15 by the gross negligence or willful or wanton misconduct.

16 C. An employee whose contraction of COVID-19 is determined to be
17 compensable under the Louisiana Workers' Compensation Law shall have no remedy
18 based in tort for such exposure against his employer, joint employer, borrowed
19 employer, statutory employer, any other person or entity listed in R.S.
20 23:1032(A)(1)(b), and any other person or entity potentially liable pursuant to the
21 Louisiana Workers' Compensation Law unless the exposure was intentional as
22 provided by R.S. 23:1032(B).

23 D. Notwithstanding the rights of employees as provided by R.S. 23:1032(B),
24 employees who contract COVID-19 and are not covered by the Louisiana Workers'
25 Compensation Law shall have no remedy in tort for such exposure against their
26 employer, joint employer, borrowed employer, statutory employer, any other person
27 or entity listed in R.S. 23:1032(A)(1)(b), and any other person or entity potentially
28 liable pursuant to the Louisiana Workers' Compensation Law unless the exposure
29 was caused by intentional act.

1 Section 2. R.S. 29:773 is hereby enacted to read as follows:

2 §773. Limitation of liability for personal protective equipment during the COVID-
3 19 public health emergency

4 A. No natural or juridical person that designs, manufactures, labels, or
5 distributes personal protective equipment in response to the COVID-19 public health
6 emergency shall be liable for civil damages for injury or death caused by such
7 personal protective equipment, unless such damages were caused by the gross
8 negligence or willful or wanton misconduct.

9 B. During the COVID-19 public health emergency, no natural or juridical
10 person who uses, employs, dispenses, or administers personal protective equipment
11 shall be liable for civil damages for injury or death resulting from or related to such
12 personal protective equipment, unless the person failed to substantially comply with
13 the applicable procedures established by federal, state, or local agencies which
14 govern such personal protective equipment and the injury or death was caused by the
15 person's gross negligence or wanton or reckless misconduct. If two or more sources
16 of procedures are applicable to the use, employment, dispensing, or administering
17 of personal protective equipment at the time of the actual or alleged exposure, the
18 person shall substantially comply with any one applicable set of procedures.

19 C. For purposes of this Section, "the COVID-19 public health emergency"
20 means the COVID-19 public health emergency as declared by Proclamation Number
21 25 JBE 2020 and as extended by any subsequent proclamations.

22 Section 3. Due to the imminent threat posed by COVID-19 as provided in
23 Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the
24 existence of a statewide public health emergency, this Act shall be retroactive to March 11,
25 2020.

26 Section 4. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____