

2020 Regular Session

SENATE BILL NO. 508

BY SENATOR MCMATH

LIABILITY. Limits liability for restaurants that provide food-to-go during the COVID-19 public health emergency. (gov sig)

1 AN ACT

2 To enact R.S. 29:773, to limit the liability of restaurants during a declared state of
3 emergency; to provide certain terms, conditions, and definitions; and to provide for
4 related matters.

5 Be it enacted by the Legislature of Louisiana:

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

7 **§773. Restaurants during declared state of emergency; limitation of liability**

8 **A. No owner, operator, employee, contractor, or agent of a restaurant**
9 **which is in substantial compliance with Proclamation Number 25 JBE 2020 and**
10 **any subsequent related proclamations and associated guidelines issued by the**
11 **Centers for Disease Control and Prevention, shall have civil liability for injury**
12 **or death due to COVID-19 infection transmitted through the preparation and**
13 **servicing of food and beverage products by the restaurant during the COVID-19**
14 **public health emergency as declared by Proclamation Number 25 JBE 2020,**
15 **unless the injury or death was caused by gross negligence or wilful and wanton**
16 **misconduct.**

17 **B. The provisions of this Section shall include the serving of the prepared**

1 food and beverage products by dine-in, takeout, drive-through, or delivery
 2 throughout the duration of the COVID-19 public health emergency.

3 C. "Restaurant" means an eating establishment which gives or offers for
 4 retail sale prepared food to the public within its premises.

5 Section 2. Due to the imminent threat posed by COVID-19 as provided in
 6 Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the
 7 existence of a statewide public health emergency, Section 1 of this Act shall be retroactive
 8 to March 11, 2020.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

The original instrument was prepared by Jerry Guillot and the following
 digest, which constitutes no part of the legislative instrument, was prepared
 by Christine Arbo Peck.

DIGEST

SB 508 Reengrossed

2020 Regular Session

McMath

Proposed law provides that no owner, operator, employee, contractor, or agent of a restaurant which is in substantial compliance with Proclamation Number 25 JBE 2020 and any subsequent related proclamations and associated guidelines issued by the Centers for Disease Control and Prevention, shall have civil liability for injury or death due to COVID-19 infection transmitted through the preparation and serving of food and beverage products by the restaurant during the COVID-19 public health emergency as declared by the proclamation unless the injury or death was caused by gross negligence or wilful and wanton misconduct.

Proposed law further provides that the provisions of proposed law shall include the serving of the prepared food and beverage products by dine-in, takeout, drive-through, or delivery throughout the duration of the COVID-19 public health emergency.

Proposed law defines "restaurant" to mean an eating establishment which gives or offers for retail sale prepared food to the public within its premises.

Proposed law is enforceable retroactive to March 11, 2020 due to the imminent threat posed by COVID-19 as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a statewide public health emergency.

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

(Adds R.S. 29:773)

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Provides for technical changes.
2. Provides that no owner, operator, employee, contractor, or agent of a restaurant which is in substantial compliance with 20 Proclamation JBE 2020-25 and any subsequent related proclamations and associated guidance issued by the Centers for Disease Control, shall have civil liability for injury or death due to coronavirus infection transmitted through the preparation and serving of food and beverage products by the restaurant during the COVID-19 public health emergency as declared by Proclamation Number 25 JBE 2020, absent clear and convincing evidence of gross negligence, willful and wanton misconduct, or violation of a public health emergency proclamation or order issued by the state or a political subdivision.
3. Provides that the provisions of proposed law shall include the serving of the prepared food and beverage products by takeout, drive-through, or delivery throughout the duration of such emergency and shall also be retroactive to the precipitating event requiring the declaration of a public health emergency.

Summary of Amendments Adopted by SenateSenate Floor Amendments to engrossed bill

1. Provides for retroactive applicability to March 11, 2020, due to the imminent threat posed by COVID-19 as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a statewide public health emergency.
2. Removes clear and convincing evidence and violation of a public health emergency proclamation or order issued by the state or political subdivision as exceptions from civil liability protection.
3. Adds dine-in as a covered service location.
4. Makes technical changes.