

2020 Regular Session

HOUSE BILL NO. 826

BY REPRESENTATIVE PRESSLY

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

1 AN ACT

2 To enact R.S. 9:2800.24, relative to the limitation of liability; to provide for the limitation  
3 of liability during the COVID-19 public health emergency; to provide for the liability  
4 of certain property owners; to provide for the liability of certain natural and juridical  
5 persons; to provide for liability related to the design, manufacture, distribution, use,  
6 and administration of personal protective equipment; to provide for the rights of  
7 employees; to provide for liability related to business operations; to provide for  
8 retroactive application; to provide an effective date; and to provide for related  
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 9:2800.24 is hereby enacted to read as follows:

12 §2800.24. Limitation of liability during the COVID-19 public health emergency

13 A. During the COVID-19 public health emergency, no natural or juridical  
14 person owning or controlling real estate or other premises who voluntarily and  
15 without compensation grants a license or privilege, or otherwise permits the  
16 designation or use of the whole or any part or parts of such real estate or premises  
17 for the purpose of sheltering individuals shall be liable for any civil damages to such  
18 individuals as a result of any act or omission relating to such real estate or premises  
19 under such license, privilege, or other permission, unless such damages were caused  
20 by the gross negligence or willful or wanton misconduct of that person.

1           B. During the COVID-19 public health emergency, no natural or juridical  
2           person who voluntarily and without compensation is engaged in the performance of  
3           a contract with and under the direction of the state or its political subdivision shall  
4           be liable for any civil damages as a result of any act or omission relating to the  
5           performance of such contract, unless such damages were caused by the gross  
6           negligence or willful or wanton misconduct of that person.

7           C. During the COVID-19 public health emergency as declared by  
8           Proclamation JBE 2020-25, any private person, firm, or corporation and employees  
9           and agents of such person, firm, or corporation, who renders assistance or advice at  
10          the request of the state or its political subdivisions shall not be civilly liable for  
11          causing the death of, or injury to, any person or damage to any property except in the  
12          event of gross negligence or willful misconduct.

13          D. During the COVID-19 public health emergency, no person who  
14          gratuitously renders emergency care, first aid, or rescue aid relating to the emergency  
15          shall be liable for civil damages as a result of such care or aid, unless such damages  
16          were caused by the gross negligence or willful or wanton misconduct of that person.

17          E. No natural or juridical person shall be liable for any civil damages for  
18          injury or death resulting from or related to actual or alleged exposure to COVID-19  
19          in the course of or through the performance or provision of the person's business  
20          operations unless it is shown by a preponderance of the evidence that the acts or  
21          omissions of that person were not in substantial compliance with the applicable  
22          COVID-19 procedures established by the federal, state, or local agencies which  
23          govern such business's operations.

24          F. No natural or juridical person that designs, manufactures, labels, or  
25          distributes personal protective equipment in response to the COVID-19 public health  
26          emergency and any other subsequent related proclamations shall be liable for civil  
27          damages for injury or death caused by such personal protective equipment unless  
28          such damages were caused by the gross negligence or willful or wanton misconduct  
29          of that person.

1           G. During the COVID-19 public health emergency, no natural or juridical  
2           person who uses, employs, dispenses, or administers personal protective equipment  
3           shall be liable for civil damages for injury or death resulting from or related to such  
4           personal protective equipment unless it is shown by a preponderance of the evidence  
5           that the acts or omissions of that person were not in substantial compliance with the  
6           applicable procedures established by federal, state, or local agencies which govern  
7           such personal protective equipment.

8           H. An employee whose contraction of COVID-19 is determined to be  
9           compensable under Title 23 of the Louisiana Revised Statutes of 1950 shall have no  
10          remedy based in tort against his employer for such exposure unless the exposure was  
11          intentional as provided by R.S. 23:1032(B).

12          I. Notwithstanding the rights of employees as provided by R.S. 23:1032(B),  
13          employees who contract COVID-19 and are not covered by Title 23 of the Louisiana  
14          Revised Statutes of 1950 shall have no remedy in tort against their employer for such  
15          exposure unless the exposure was caused by intentional act.

16          J. For purposes of this Section, "the COVID-19 public health emergency"  
17          means the COVID-19 public health emergency as declared by Proclamation JBE  
18          2020-25 and as extended by any subsequent proclamations.

19          Section 2. The provisions of this Act shall apply to all causes of action arising from  
20 any act or omission occurring on or after March 11, 2020.

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

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 826 Engrossed

2020 Regular Session

Pressly

**Abstract:** Limits liability for certain real estate owners, for the voluntary performance of public contracts, for gratuitous emergency care, for the performance of business operations, for the manufacture and use of personal protective equipment, and provides for the rights of employees during the COVID-19 public health emergency.

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 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 its is proven by a preponderance of the evidence that the person was not in substantial compliance with applicable COVID-19 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. 9:2800.24)

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. Removes provisions relative to healthcare providers and persons who perform an action outside their usual scope of business.
3. Provide for retroactive application.