

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. 37:1739, 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. 37:1739 is hereby enacted to read as follows:

7 **§1739. 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 20 Proclamation JBE 2020-25 and any**  
10 **subsequent related proclamations and associated guidance issued by the Center**  
11 **for Disease Control, shall have civil liability for injury or death due to**  
12 **coronavirus infection transmitted through the preparation and serving of food**  
13 **and beverage products by the restaurant during the COVID-19 public health**  
14 **emergency as declared by proclamation JBE 2020-25, absent clear and**  
15 **convincing evidence of gross negligence, willful and wanton misconduct, or**  
16 **violation of a public health emergency proclamation or order issued by the state**  
17 **or a political subdivision.**

1                    **B. The provisions of this Section shall include the serving of the prepared**  
 2                    **food and beverage products by takeout, drive-through, or delivery throughout**  
 3                    **the duration of such emergency and shall also be retroactive to the precipitating**  
 4                    **event requiring the declaration.**

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

7                    Section 2. This Act shall become effective upon signature by the governor or, if not  
 8                    signed by the governor, upon expiration of the time for bills to become law without signature  
 9                    by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 10                    vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 11                    effective on the day following such approval.

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The original instrument was prepared by Jerry Guillot and the following  
 digest, which constitutes no part of the legislative instrument, was prepared  
 by Margaret M. Corley.

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DIGEST

SB 508 Engrossed

2020 Regular Session

McMath

Proposed law 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 JBE 2020-25, 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.

Proposed law further 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.

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

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

(Adds R.S. 37:1739)

Summary of Amendments Adopted by Senate

Committee 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 JBE 2020-25, 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.