

SENATE BILL NO. 435

BY SENATORS ABRAHAM AND FOIL AND REPRESENTATIVE EDMONDS

1 AN ACT

2 To amend and reenact R.S. 29:735(A)(1), and to enact R.S. 29:773, relative to immunity  
3 from civil liability; to provide relative to certain immunity by public entities and  
4 persons from civil liability during disasters and emergencies; to provide relative to  
5 the Louisiana Homeland Security and Emergency Assistance and Disaster Act; to  
6 provide relative to limitation of liability during the COVID-19 public health  
7 emergency; to provide certain terms and conditions; and to provide for related  
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 29:735(A)(1) is hereby amended and reenacted and R.S. 29:773 is  
11 hereby enacted to read as follows:

12 §735. Immunity of personnel

13 A.(1) Neither the state nor any political subdivision thereof, nor other state  
14 agencies, nor, except in case of willful misconduct, the ~~agents~~ employees or  
15 representatives of any of them engaged in any homeland security and emergency  
16 preparedness and recovery activities, while complying with or attempting to comply

1 with this Chapter or any rule or regulation promulgated pursuant to the provisions  
 2 of this Chapter shall be liable for the death of or any injury to persons or damage to  
 3 property as a result of such activity.

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5 **§773. Limitation of liability during the COVID-19 public health emergency**

6 **A. Notwithstanding any other provision of law to the contrary, no**  
 7 **natural or juridical person, state or local government, or political subdivision**  
 8 **thereof, shall be liable for damages or personal injury resulting from or related**  
 9 **to an actual or alleged exposure to COVID-19 in the course of or through the**  
 10 **performance or provision of the person's, government's, or political**  
 11 **subdivision's business operations unless the person, government, or political**  
 12 **subdivision failed to substantially comply with the applicable COVID-19**  
 13 **procedures established by the federal, state, or local agency which governs the**  
 14 **business operations and the injury or death was caused by the person's,**  
 15 **government's, or political subdivision's gross negligence or wanton or reckless**  
 16 **misconduct. If two or more sources of procedures are applicable to the business**  
 17 **operations at the time of the actual or alleged exposure, the person, government,**  
 18 **or political subdivision shall substantially comply with any one applicable set**  
 19 **of procedures.**

20 **B. This Section shall not apply if the damages that resulted from or are**  
 21 **related to the actual or alleged exposure to COVID-19 are shown by the**  
 22 **evidence to be the result of gross negligence, willful misconduct, or intentional**  
 23 **criminal misconduct.**

24 **C. This Section shall not affect the right of any person to receive benefits**  
 25 **to which he would otherwise be entitled under the Louisiana Workers'**  
 26 **Compensation Law.**

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

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

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_