

2022 Regular Session

HOUSE BILL NO. 1022

BY REPRESENTATIVE AMEDEE

CIVIL/ACTIONS: Provides for a cause of action for mandating, recommending, or administering certain products

1 AN ACT

2 To enact Chapter 5 of Title V of Book III of Title 9 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 9:2800.81 through 2800.85, relative to liability-free
4 products; to provide relative to declination of a liability-free product; to provide for
5 a civil remedy; to provide for legislative intent; to provide for definitions; to provide
6 for exceptions; to provide for attorney fees and costs; to provide for public policy;
7 to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 5 of Title V of Book III of Title 9 of the Louisiana Revised
10 Statutes of 1950, comprised of R.S. 9:2800.81 through 2800.85, is hereby enacted to read
11 as follows:

12 CHAPTER 5. LOUISIANA CITIZEN CIVIL ACTIONS FOR HARM CAUSED BY

13 LIABILITY-FREE PRODUCTS

14 §2800.81. Title; legislative intent; purpose

15 A. This Chapter shall be known and may be cited as the "Louisiana Citizen
16 Civil Actions for Harm Caused by Liability-Free Products."

17 B. The intent of this Chapter is to provide a civil remedy for harm caused to
18 Louisiana citizens by the mandating, recommending, or administering of a product
19 that is granted immunity from civil liability by law and for which a person injured
20 by the use of the product has no remedy for civil damages against the manufacturer

1 of the product. The inability to hold a manufacturer of a product liable for the
2 damages caused by the product renders the manufacturer and the product essentially
3 liability-free.

4 C. The purpose of this Chapter is to provide a remedy to Louisiana citizens
5 who are harmed by products for which the manufacturer is immune from civil
6 liability by requiring the entity or agency that mandates, recommends, or administers
7 a liability-free product to bear responsibility to a citizen for harm that results from
8 the administration of the liability-free product.

9 §2800.82. Definitions

10 A. As used in this Chapter:

11 (1) "Educational institution" means a school, including a preschool, early
12 learning center, technical, trade, or vocational school, junior college, college or
13 university that meets one or more of the following:

14 (a) Is operated or directly supported by the government of the United States
15 of America.

16 (b) Is operated or directly supported by any state or local government or by
17 a political subdivision of any state or local government.

18 (c) Is approved by a state agency or subdivision of the state.

19 (d) Is accredited by a state-recognized or nationally-recognized accrediting
20 body.

21 (2) "Employer" means a person, association, legal or commercial entity, the
22 state, or any state agency, board, commission, or political subdivision of the state
23 receiving services from an employee and, in return, giving compensation of any kind
24 to an employee.

25 (3) "Employment" means any services, including service in interstate
26 commerce, performed for wages or under any contract of hire, written or oral,
27 expressed or implied.

28 (4) "Employment opportunity" means the state of being engaged in any
29 activity or service for wages or salary.

1 (5) "Government agency" means an administrative unit of a local, state, or
2 federal government.

3 (6) "Guardian" means an individual who is legally responsible for the care
4 of a child or adult who does not have the capacity for self-care.

5 (7) "Harassment" means a course of conduct which threatens, intimidates,
6 alarms, or puts an individual in fear for his safety or welfare.

7 (8) "Liability-free product" means a product whose manufacturer is immune
8 from an award of civil damages to the user of the product for harm caused by the
9 reasonably foreseeable use of the product.

10 (9) "Loss of employment" means an employment termination other than the
11 discharge for cause, voluntary separation, or retirement.

12 (10) "Person" means a natural person.

13 (11) "Private education" means an education provided by a private individual
14 or organization rather than by the state or a public body.

15 (12) "Promotion" means an increase in an employee's rank or position or rate
16 of pay.

17 (13) "Public education" means education that is funded by public funds,
18 including government-imposed taxes.

19 §2800.83. Government agencies, employers, and educational institutions; certain
20 recommendations to persons; prohibition

21 A. Notwithstanding any other provision of law to the contrary, for the
22 purposes of this Section, employers, government agencies, or educational institutions
23 shall be prohibited from mandating liability-free products under threat of the
24 following:

25 (1) A person's loss of employment, employment opportunity, or promotion.

26 (2) A person's loss of the ability to receive a public or private education.

27 B.(1) The prohibition in Subsection A of this Section shall not apply to a
28 Medicare or Medicaid certified provider, but only to the extent such provider is

1 subject to a valid and enforceable Medicare or Medicaid condition of participation
2 that imposes a requirement contrary to this Chapter.

3 (2) The prohibition in Subsection A of this Section shall not apply to a
4 healthcare provider enrolled in Medicare or Medicaid that is subject to fines or
5 penalties for nonadherence to federal rules and regulations, but only to the extent
6 such provider is subject to a valid and enforceable Medicare or Medicaid condition
7 of participation that imposes a requirement contrary to this Chapter.

8 C. Compliance with R.S. 17:170 shall not constitute a violation of
9 Subsection A of this Section.

10 D. A person or guardian of a person shall have the right to decline a liability-
11 free product that an employer, government agency, or educational institution
12 recommends to the person without incurring harassment, loss of employment, loss
13 of an employment opportunity, loss of promotion opportunity, or loss of the ability
14 to receive a private or public education.

15 E. An employer, government agency, or educational institution that
16 recommends a liability-free product shall disclose in writing to the proposed user of
17 the product or to the guardian of the proposed user that the manufacturer or
18 individuals recommending and administering the recommended liability-free product
19 are immune from civil liability if a person is harmed by the liability-free product.

20 §2800.84. Cause of action

21 A person harmed or injured as a result of a violation of this Section may
22 bring a cause of action for damages caused by such violation. If a person prevails in
23 such suit, he shall be awarded reasonable attorney fees and other such costs of
24 litigation.

25 §2800.85. Public policy

26 A. Any provision of a contract or agreement that purports to waive or limit
27 in any way a person's rights under this Chapter, including but not limited to any right
28 to a remedy or means of enforcement, shall be deemed contrary to public policy and
29 shall be void and unenforceable.

1 B. Nothing in this Chapter shall prevent a person or guardian of a person
2 from declining a liability-free product that is recommended by an employer,
3 government agency, or educational institution.

4 C. The provisions of this Chapter shall have no effect on R.S. 9:2800.60.

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

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)]

HB 1022 Engrossed

2022 Regular Session

Amedee

Abstract: Provides for a civil remedy for harm caused to a person by the mandating, recommending, or administering of liability-free products.

Proposed law provides that it is the intent of the legislature to provide for a civil remedy for harm caused by the mandating, recommending, or administering of a product that is immune from civil liability and for which the person has no remedy against the manufacturer of the product. Proposed law provides that the inability to hold a manufacturer of a product liable for the damages caused by the product renders the manufacturer and product essentially liability-free.

Proposed law provides that it is the intent of the legislature to require the entity mandating, recommending, or administering a liability-free product to bear responsibility to a citizen for harm that results from the administration of the liability-free product.

Proposed law defines "educational institution", "employer", "employment", "employment opportunity", "government agency", "guardian", "harassment", "liability-free product", "loss of employment", "person", "private education", "promotion", and "public education".

Proposed law provides that notwithstanding any other provision of law to the contrary, employers, government agencies, or educational institutions are prohibited from mandating liability-free products under threat of the following: a person's loss of employment, employment opportunity, or promotion or a person's loss of the ability to receive a public or private education.

Proposed law provides that proposed law shall not apply to a Medicare or Medicaid certified provider but only to the extent such provider is subject to a valid and enforceable condition of participation that imposes a requirement contrary to proposed law. Proposed law further provides that proposed law shall not apply to a healthcare provider enrolled in Medicare or Medicaid that is subject to fines or penalties for nonadherence to federal rules and regulations.

Present law (R.S. 17:170) provides for immunizations for persons entering any school and exemptions.

Proposed law provides that compliance with present law (R.S. 17:170) shall not constitute a violation of proposed law.

Proposed law provides that a person shall have the right to decline a liability-free product that an employer, government agency, or educational institution recommends without incurring harassment, loss of employment, loss of an employment opportunity, loss of promotion, or loss of the ability to receive a private or public education.

Proposed law provides that an employer, government agency, or educational institution that recommends a liability-free product shall disclose in writing to the proposed user that the manufacturer or individuals recommending and administering the liability-free product are immune from civil liability.

Proposed law provides that a person harmed or injured as a result of a violation of proposed law may bring a cause of action.

Proposed law provides for reasonable attorney fees and litigation costs.

Proposed law provides that any provision of a contract or agreement that purports to waive or limit a person's rights under proposed law shall be void and unenforceable.

Proposed law provides that nothing shall prevent a person or guardian of a person from declining a liability-free product that is recommended by an employer, government agency, or educational institution.

Proposed law provides that the provisions of proposed law shall have no effect on present law (R.S. 9:2800.60).

Present law (R.S. 9:2800.60) provides for liability of manufacturers and sellers of firearms.

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

(Adds R.S. 9:2800.81-2800.85)