

2020 Regular Session

SENATE BILL NO. 435

BY SENATORS ABRAHAM AND FOIL

LIABILITY. Provides relative to certain immunity from civil liability during state of emergencies. (gov sig)

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
17 with this Chapter or any rule or regulation promulgated pursuant to the provisions

1 of this Chapter shall be liable for the death of or any injury to persons or damage to
 2 property as a result of such activity.

3 * * *

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

5 **A. Notwithstanding any other provision of law to the contrary, no person**
 6 **or entity, including any local or state governmental entity or employee thereof,**
 7 **shall be liable for damages or personal injury resulting from or related to an**
 8 **actual or alleged exposure to COVID-19 in the course of or through such person**
 9 **or entity's business services or while engaged in the performance of such person**
 10 **or entity's duties, provided that the person or entity was relying on and**
 11 **generally followed applicable government standards and guidance related to**
 12 **COVID-19 exposure.**

13 **B. This provision shall not apply if damages resulted from or related to**
 14 **the actual or alleged exposure to COVID-19 is shown by clear and convincing**
 15 **evidence to be the result of gross negligence, willful misconduct, or intentional**
 16 **criminal misconduct.**

17 **C. This provision shall not affect the right of any person to receive**
 18 **benefits to which he would otherwise be entitled under the workers'**
 19 **compensation law.**

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

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

Present law provides for certain powers of the state and political subdivisions during a declared state of emergency.

Proposed law retains present law.

Present law provides for certain immunity from civil liability for actions taken under the Act by state, political subdivisions, other agencies, agents, employees or representatives of any of them.

Proposed law provides such immunity for action taken under the Act by the state, political subdivision, other state agencies or employees or representatives of any of them.

Proposed law provides that notwithstanding any other provision of present law to the contrary, no person or entity, including any local or state governmental entity or employee thereof, shall be liable for damages or personal injury resulting from or related to an actual or alleged exposure to COVID-19 in the course of or through such person or entity's business services or while engaged in the performance of such person or entity's duties, provided that the person or entity was relying on and generally followed applicable government standards and guidance related to COVID-19 exposure.

Proposed law provides that the limitation of liability shall not apply to any damages which resulted from or are related to the actual or alleged exposure to COVID-19 which is shown by clear and convincing evidence to be the result of gross negligence, willful misconduct, or intentional criminal misconduct.

Proposed law provides that the right of any person to receive benefits to which he would otherwise be entitled under the workers' compensation law shall not be affected.

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

(Amends R.S. 29:735(A)(1), adds R.S. 29:773)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Provides that notwithstanding any other provision of present law to the contrary, no person or entity, including any local or state governmental entity or employee thereof, shall be liable for damages or personal injury resulting from or related to an actual or alleged exposure to COVID-19 in the course of or through such person or entity's business services or while engaged in the performance of such person or entity's duties, provided that the person or entity was relying on and generally followed applicable government standards and guidance related to COVID-19 exposure.
2. Provides that the limitation of liability shall not apply to any damages which resulted from or are related to the actual or alleged exposure to COVID-19 which is shown by clear and convincing evidence to be the result of gross negligence, willful misconduct, or intentional criminal misconduct.
3. Provides that the right of any person to receive benefits to which he would otherwise be entitled under the workers' compensation law shall not be affected.