

2020 Regular Session

SENATE BILL NO. 491

BY SENATOR HEWITT

LIABILITY. Limits liability of persons who provide relief or recovery equipment or services during a declared state emergency. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 29:735.3.1(A) and to enact R.S. 29:735.3.2, to provide for  
3 limitation of liability for rendering disaster relief, recovery services, or products  
4 during a declared state of emergency; to provide certain terms, conditions, and  
5 requirements; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 29:735.3.1(A) is hereby amended and reenacted and R.S. 29:735.3.2  
8 is hereby enacted to read as follows:

9 §735.3.1. Immunity for volunteers

10 A. During a declared state of emergency, any natural or juridical person, who  
11 gratuitously and voluntarily renders any disaster relief ~~or~~, recovery services, or  
12 products in coordination with the state or its political subdivisions shall not be liable  
13 to the recipient thereof for an injury or death to a person or any damage to property  
14 resulting therefrom, except in the event of gross negligence or willful misconduct.

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16 §735.3.2. Immunity for emergency efforts

17 During a declared state of emergency, any natural or juridical person,

1        who renders disaster relief, recovery services, or products outside of the typical  
 2        course and scope of their operations in coordination with the federal  
 3        government, the state, or its political subdivisions shall not be liable to the  
 4        recipient thereof for any injury or death to a person or any damage to property  
 5        resulting therefrom, except in the event of gross negligence or willful  
 6        misconduct.

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

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

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The original instrument was prepared by Jerry J. Guillot. The following  
 digest, which does not constitute a part of the legislative instrument, was  
 prepared by Brandi Cannon.

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DIGEST

SB 491 Reengrossed

2020 Regular Session

Hewitt

Present law provides that during a declared state of emergency, any natural or juridical person, who gratuitously and voluntarily renders any disaster relief or recovery services in coordination with the state or its political subdivisions, shall not be liable to the recipient thereof for any injury or death to a person or any damage to property resulting therefrom, except in the event of gross negligence or willful misconduct.

Proposed law expands the scope of present law to provide that, during a declared state of emergency, any natural or juridical person, who gratuitously and voluntarily renders disaster relief, recovery services, or products in coordination with the state or its political subdivisions, shall not be liable to the recipient thereof for any injury or death to a person or any damage to property resulting therefrom, except in the event of gross negligence or willful misconduct.

Proposed law provides that, during a declared state of emergency, any natural or juridical person, who renders disaster relief, recovery services, or products outside of the typical course and scope of their operations in coordination with the federal government, the state, or its political subdivisions, shall not be liable to the recipient thereof for any injury or death to a person or any damage to property resulting therefrom, except in the event of gross negligence or willful misconduct.

Proposed law provides that due to the imminent threat posed by COVID-19 as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a statewide public health emergency, proposed law shall be retroactive to March 11, 2020.

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

(Amends R.S. 29:735.3.1(A); adds R.S. 29:735.3.2)

Summary of Amendments Adopted by Senate

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

1. Provides for technical corrections.
2. Provides that disaster relief and recovery services includes but is not limited to the manufacturing, distribution, donation, or use of hand sanitizers, disinfecting productions, protective clothing, helmets, gloves, face shields, goggles, face masks, respirators, or other equipment designed in accordance with government standards to protect the wearer from injury or the spread of infection or illness.
3. Provides that due to the imminent threat posed by COVID-19 as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a statewide public health emergency, proposed law shall be retroactive to March 11, 2020.

Senate Floor Amendments to engrossed bill

1. Provides that the limitation of liability applies to any volunteer or other person who renders any product in coordination with the government during a declared state of emergency.
2. Provides for limited liability for any persons who render disaster relief, recovery services, or products outside of the typical course and scope of their operations in coordination with the government during a declared state of emergency.