HLS 16RS-206 **ORIGINAL**

2016 Regular Session

HOUSE BILL NO. 232

BY REPRESENTATIVE STOKES

HEALTH/MEDICAL TREATMENT: Adds limitation of liability provisions to the Right To Try Act

AN ACT

To amend and reenact R.S. 40:1169.5, relative to limitation of liability for parties involved in the care of certain terminally ill patients; to add limitation of liability provisions to the Right To Try Act; to provide for construction of certain provisions of the Right To Try Act relative to causes of action; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1169.5 is hereby amended and reenacted to read as follows:

§1169.5. Limitation of liability; no cause of action created

A. Notwithstanding any provision of law to the contrary, a physician who prescribes an investigational drug, biological product, or device to an eligible patient pursuant to the provisions of this Subpart shall be immune from civil liability, including but not limited to any cause of action arising under R.S. 40:1231.1 et seq., for any adverse action, condition, or other outcome resulting from the patient's use of the investigational drug, biological product, or device.

B. Nothing in this Section shall be construed as creating a cause of action by or on behalf of any person against a manufacturer of an investigational drug, biological product, or device, or against any person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational drug, biological product, or device.

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)]

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Abstract: Amends the Right To Try Act to provide a limitation of liability for manufacturers of investigational drugs, biological products, or devices prescribed to certain terminally ill patients; and for any person or entity involved in the care of such patients.

Present law known as the "Right To Try Act" authorizes the prescription of investigational drugs, biological products, and devices to certain terminally ill patients who have given informed written consent to investigational treatment and who meet other criteria necessary to be deemed "eligible patients" pursuant to present law. Proposed law retains present law.

Present law provides that a physician who prescribes an investigational drug, biological product, or device to an eligible patient shall be immune from civil liability - including but not limited to causes of action arising under present law relative to medical malpractice - for any adverse action, condition, or other outcome resulting from the patient's use of the investigational drug, biological product, or device.

Proposed law retains present law, and adds thereto provisions stipulating that nothing in present law shall be construed as creating a cause of action by or on behalf of any person against a manufacturer of an investigational drug, biological product, or device, or against any person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational treatment.

(Amends 40:1169.5)