

The House Committee on Judiciary offers the following substitute to HB 1321:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 10 of the Official Code of Georgia Annotated, relating to commerce, so as
2 to provide for a litigation bar on governmental entities regarding certain state-wide opioid
3 litigation; to provide for legislative findings and intent; to provide for definitions; to provide
4 for applicability; to provide for related matters; to provide an effective date; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 10 of the Official Code of Georgia Annotated, relating to commerce, is amended by
9 adding a new chapter to read as follows:

10 "CHAPTER 13B

11 10-13B-1.

12 The General Assembly finds that:

13 (1) There is an opioid epidemic occurring in the United States, and the State of Georgia
14 has been greatly impacted;

15 (2) State-wide coordination surrounding and managing opioid addiction and related
16 disorders is critical to the health and safety of all Georgians;

17 (3) Funding is needed in the state for, among other things, prevention and treatment of
18 opioid addiction and related disorders; providing resources to law enforcement agencies
19 to address the opioid crisis; increasing the number of professionals who provide treatment
20 for opioid addiction; educating medical professionals regarding the safe and effective
21 prescribing of, and then tapering off of, opioids; and treatment and prevention of opioid
22 use disorder in incarcerated populations;

23 (4) It is imperative that the state receive the full amount of any opioid settlement, and in
24 order to do so, the state must be able to release claims for all state and local public bodies
25 and instrumentalities in the state; and

26 (5) While local governments generally have the authority to pursue and litigate claims
27 against businesses and individuals to protect their own interests, in certain limited
28 circumstances involving particular industries, the interests of the state as a whole are best
29 served by having a unified settlement structure that benefits both the state and its local
30 governments and brings full and complete closure to the claims that were asserted or
31 could have been asserted and maximizes the state and local governments' potential
32 recovery to address this extraordinary crisis.

33 10-13B-2.

34 (a) As used in this chapter, the term:

35 (1) 'Governmental entity' means:

36 (A) This state and each of its departments, agencies, divisions, boards, commissions,
37 authorities, and instrumentalities; and

38 (B) A political subdivision or creation of this state, including a county, municipality,
39 special district, county and independent school systems, community service board,
40 authority, any county or state officeholder, and any other public officeholder or public

41 entity that has asserted or could assert a claim for damages as a result of the
42 manufacture, marketing, sale, dispensing, or distribution of opioids.

43 (2) 'Released claim' means a claim by a governmental entity that has been or could have
44 been released under a state-wide opioid settlement agreement.

45 (3) 'Released entity' means an entity against which a claim has been released under a
46 state-wide opioid settlement agreement.

47 (4) 'State-wide opioid settlement agreement' means any settlement agreement and related
48 documents that:

49 (A) Are entered into by this state through the Attorney General with opioid
50 manufacturers, distributors, retailers, labelers, marketers, pharmacies, or other entities
51 concerning the use or prescription of opioid products;

52 (B) Relate to illegal or tortious conduct in the manufacturing, marketing, promotion,
53 sale, distribution, or dispensing of opioids;

54 (C) Are entered into by the State on or after March 31, 2021;

55 (D) Provide a mechanism which permits governmental entities to join into such
56 settlement agreement; and

57 (E) Are the subject of a memorandum of understanding or similar agreement entered
58 into by both the Attorney General and at least 65 percent of the governmental entities
59 which have active and pending litigation against one or more released entities identified
60 in the settlement agreement as of the date when governmental entities are first permitted
61 to join such settlement agreement.

62 10-13B-3.

63 (a) Entry into a state-wide opioid settlement agreement shall serve to bar any and all past,
64 present or future claims on behalf of any governmental entity seeking to recover against
65 any business or person that is a released entity under the terms of the relevant settlement.

66 Such bar shall apply to any and all released claims or suits by any governmental entity

67 created by or pursuant to an Act of the General Assembly, the Constitution, or any
68 department, agency, or authority thereof, for damages, abatement, injunctive or any other
69 relief. No such claim barred by this Code section shall be brought, threatened, asserted or
70 pursued in any way in any court, and any such claim shall be dismissed by the court in
71 which the claim is brought.

72 (b) The bar provided for in subsection (a) of this Code section shall not apply to a
73 bellwether claim of any governmental entity, provided that such claim:

74 (1) Is brought in the proceedings titled *In re: National Prescription Opiate Litigation,*
75 Case No.: MDL 2804 as bellwether claims that are to be tried in a bellwether trial;

76 (2) Is selected by the court in *In re: National Prescription Opiate Litigation,* Case No.:
77 MDL 2804 as a bellwether claim to be tried in a bellwether trial; and

78 (3) Is brought against defendants selected as bellwether defendants in a bellwether trial.

79 (c) The bar provided for in subsection (a) of this Code section shall become active and
80 effective upon the filing of a consent order by the state that attests to and evidences that a
81 state-wide opioid settlement agreement has been reached, and that the parameters of this
82 chapter have been met."

83 **SECTION 2.**

84 This Act shall become effective upon its approval by the Governor or upon its becoming law
85 without such approval.

86 **SECTION 3.**

87 All laws and parts of laws in conflict with this Act are repealed.