

HOUSE BILL No. 2024

By Representatives Owens, Croft, Lynn, Thomas, Waggoner and Wasinger

12-31

1 AN ACT concerning adult care homes; relating to civil liability for
2 COVID-19 claims; providing immunity therefrom; amending K.S.A.
3 2020 Supp. 60-5506 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2020 Supp. 60-5506 is hereby amended to read as
7 follows: 60-5506. (a) Notwithstanding any other provision of law, an adult
8 care facility shall ~~have an affirmative defense to be immune from~~ liability
9 in a civil action for damages, administrative fines or penalties for a
10 COVID-19 claim ~~if such facility:~~

11 ~~(1) (A) Was caused, by the facility's compliance with a statute or rule~~
12 ~~and regulation, to reaccept a resident who had been removed from the~~
13 ~~facility for treatment of COVID-19; or~~

14 ~~(B) treats a resident who has tested positive for COVID-19 in such~~
15 ~~facility in compliance with a statute or rule and regulation; and~~

16 ~~(2) is acting pursuant to and in substantial compliance with public~~
17 ~~health directives.~~

18 ~~(b) As used in this section, "public health directives" means any of~~
19 ~~the following that is required by law to be followed related to public health~~
20 ~~and COVID-19:~~

21 ~~(1) State statutes, rules and regulations or executive orders issued by~~
22 ~~the governor pursuant to K.S.A. 48-925, and amendments thereto; or~~

23 ~~(2) federal statutes or regulations from federal agencies, including the~~
24 ~~United States centers for disease control and prevention and the~~
25 ~~occupational safety and health administration of the United States~~
26 ~~department of labor.~~

27 ~~(b) The provisions of this section shall apply to any claim for~~
28 ~~damages or liability that arise out of or relate to acts, omissions or~~
29 ~~healthcare decisions related to the COVID-19 public health emergency.~~

30 ~~(c) The provisions of this section shall not apply to civil liability~~
31 ~~when it is established that the act, omission or healthcare decision~~
32 ~~constituted gross negligence or willful, wanton or reckless conduct.~~

33 Sec. 2. K.S.A. 2020 Supp. 60-5506 is hereby repealed.

34 Sec. 3. This act shall take effect and be in force from and after its
35 publication in the statute book.