
ASSEMBLY BILL NO. 314—ASSEMBLYMEN TITUS, LEAVITT,
ROBERTS, KRASNER, HAFEN; DICKMAN, ELLISON, HANSEN,
HARDY, KASAMA, MATTHEWS, MCARTHUR, O'NEILL,
TOLLES AND WHEELER

MARCH 17, 2021

JOINT SPONSORS: SENATORS SETTELMEYER, HANSEN, HARDY,
HAMMOND, PICKARD; BUCK, GOICOECHEA, KIECKHEFER
AND SEEVERS GANSERT

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing civil liability for injury
or death resulting from exposure to COVID-19.
(BDR 3-448)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to public health; revising provisions limiting civil
liability for personal injury or death resulting from
exposure to COVID-19; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires a complaint to be plead with particularity in a civil action
2 alleging a personal injury or death as a result of exposure to COVID-19 while on a
3 premises owned or operated by certain entities, or during an activity conducted or
4 managed by such entities. Existing law also provides that an entity that was in
5 substantial compliance with controlling health standards is immune from liability in
6 such an action unless the plaintiff proves that: (1) the entity violated controlling
7 health standards while acting with gross negligence; and (2) the gross negligence
8 was the proximate cause of the plaintiff's personal injury or death. (NRS 41.835)
9 Existing law excludes from the entities receiving immunity from civil liability
10 under those provisions: (1) an agency to provide nursing in the home; (2) a facility
11 for hospice care; (3) a facility for intermediate care; (4) a facility for skilled
12 nursing; (5) a hospital; or (6) an independent center for emergency medical care.
13 (NRS 41.815, 41.830) **Sections 1 and 2** of this bill remove those exclusions,
14 thereby providing such medical facilities and providers with immunity from civil



15 liability under those provisions. **Section 3** of this bill: (1) extends that immunity
16 from civil liability to also apply to an independent contractor of an entity; and (2)
17 clarifies that the immunity from civil liability also applies to officers and
18 employees of an entity. **Section 4** of this bill provides that the extended protections
19 from liability created by **sections 1-3** of this bill apply to any cause of action or
20 claim that accrues before, on or after the effective date of this bill and before the
21 later of: (1) the date on which the Governor terminates the emergency described in
22 the Declaration of Emergency for COVID-19 issued on March 12, 2020; or (2)
23 July 1, 2023.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 41.815 is hereby amended to read as follows:

2 41.815 ~~[1.]~~ “Business” means a natural person, or a
3 corporation, partnership, association or other business organization,
4 engaging in an activity for profit at a premises located in this State.

5 ~~[2. The term does not include a business that operates:-~~

6 ~~—(a) An agency to provide nursing in the home as defined in~~
7 ~~NRS 449.0015;~~

8 ~~—(b) A facility for hospice care as defined in NRS 449.0033;~~

9 ~~—(c) A facility for intermediate care as defined in NRS 449.0038;~~

10 ~~—(d) A facility for skilled nursing as defined in NRS 449.0039;~~

11 ~~—(e) A hospital as defined in NRS 449.012; or~~

12 ~~—(f) An independent center for emergency medical care as~~
13 ~~defined in NRS 449.013.]~~

14 **Sec. 2.** NRS 41.830 is hereby amended to read as follows:

15 41.830 1. “Nonprofit organization” means any private
16 organization not operated for profit.

17 2. The term, includes, without limitation, an organization for
18 youth sports or an alumni, charitable, civic, educational, fraternal,
19 patriotic, religious, labor or veterans’ organization, a credit union
20 organized under the provisions of chapter 672 of NRS or the Federal
21 Credit Union Act, or a state or local bar association, that:

22 (a) Has been determined pursuant to NRS 372.326 to be created
23 for religious, charitable or educational purposes; or

24 (b) Qualifies as a tax exempt organization pursuant to 26 U.S.C.
25 § 501(c).

26 ~~[3. The term does not include a nonprofit organization that~~
27 ~~operates:-~~

28 ~~—(a) An agency to provide nursing in the home as defined in~~
29 ~~NRS 449.0015;~~

30 ~~—(b) A facility for hospice care as defined in NRS 449.0033;~~

31 ~~—(c) A facility for intermediate care as defined in NRS 449.0038;~~

32 ~~—(d) A facility for skilled nursing as defined in NRS 449.0039;~~

33 ~~—(e) A hospital as defined in NRS 449.012; or~~



1 ~~—(f) An independent center for emergency medical care as~~
2 ~~defined in NRS 449.013.]~~

3 **Sec. 3.** NRS 41.835 is hereby amended to read as follows:

4 41.835 1. In any civil action where a plaintiff alleges a
5 personal injury or death as a result of exposure to COVID-19 while
6 on a premises owned or operated by an entity, or during an activity
7 conducted or managed by the entity ~~[]~~, *including, without*
8 *limitation, such a civil action where the defendant is an officer,*
9 *employee or independent contractor of the entity:*

10 (a) The complaint must be pled with particularity.

11 (b) If the ~~[entity]~~ *defendant* was in substantial compliance with
12 controlling health standards, the ~~[entity]~~ *defendant* is immune from
13 liability unless the plaintiff pleads sufficient facts and proves that:

14 (1) The ~~[entity]~~ *defendant* violated controlling health
15 standards with gross negligence; and

16 (2) The gross negligence was the proximate cause of the
17 plaintiff's personal injury or death.

18 (c) If the ~~[entity]~~ *defendant* was not in substantial compliance
19 with controlling health standards:

20 (1) The plaintiff may pursue any claim recognized at
21 common law or by statute; and

22 (2) The immunity described in paragraph (b) does not apply
23 to the ~~[entity.]~~ *defendant.*

24 2. The court shall determine as a matter of law whether an
25 entity *or an officer, employee or independent contractor of an*
26 *entity* was in substantial compliance with controlling health
27 standards at the time of an alleged exposure to COVID-19. The
28 plaintiff has the burden of establishing *that* the entity, *or officer,*
29 *employee or independent contractor of the entity* was not in
30 substantial compliance with controlling health standards.

31 3. As used in this section:

32 (a) "Controlling health standards" means any of the following
33 that are clearly and conspicuously related to COVID-19 and that
34 prescribed the manner in which an entity must operate at the time of
35 the alleged exposure:

36 (1) A federal, state or local law, regulation or ordinance; or

37 (2) A written order or other document published by a federal,
38 state or local government or regulatory body.

39 (b) "Entity" means a business, governmental entity or nonprofit
40 organization . ~~[and the officers and employees of the business,~~
41 ~~governmental entity or nonprofit organization.]~~

42 (c) "Premises" means any real property located in this State.

43 (d) "Substantial compliance" means the good faith efforts of an
44 entity, *or an officer, employee or independent contractor of an*
45 *entity*, to help control the spread of COVID-19 in conformity with



1 controlling health standards. The entity *or an officer of the entity*
2 may demonstrate substantial compliance by establishing policies
3 and procedures to enforce and implement the controlling health
4 standards in a reasonable manner. *An officer, employee or*
5 *independent contractor of an entity may demonstrate substantial*
6 *compliance by establishing that he or she adhered in a reasonable*
7 *manner to such policies and procedures established by the entity.*
8 Isolated or unforeseen events of noncompliance with the controlling
9 health standards do not demonstrate noncompliance by the entity ~~§~~
10 *, officer, employee or independent contractor.*

11 **Sec. 4.** The amendatory provisions of sections 1, 2 and 3 of
12 this act apply only to a cause of action or claim arising from a
13 personal injury or death specified in NRS 41.835, as amended by
14 section 3 of this act, that accrues before, on or after the effective
15 date of this act and before the later of:

16 1. The date on which the Governor terminates the emergency
17 described in the Declaration of Emergency for COVID-19 issued on
18 March 12, 2020; or

19 2. July 1, 2023.

20 **Sec. 5.** This act becomes effective upon passage and approval.

