

SENATE FILE NO. SF0019

Public health emergencies-immunity amendments.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to public health and safety; specifying the
2 assumption of risk for exposure to or contracting COVID-19;
3 defining terms related to the assumption of risk for COVID-
4 19; amending provisions related to immunity from civil
5 liability for actions and omissions during the public
6 health emergency declared for COVID-19; specifying
7 applicability; and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 1-1-141 is created to read:

12

13 **1-1-141. COVID-19 exposure and illness; assumption of**
14 **the risk.**

15

16 (a) As used in this section:

1

2 (i) "Claimant" means any person or estate of a
3 person seeking recovery of damages in a COVID-19 liability
4 claim;

5

6 (ii) "COVID-19" means severe acute respiratory
7 syndrome coronavirus 2 (SARS-CoV-2) and any mutation or
8 viral fragments thereof or any disease or condition caused
9 by severe acute respiratory syndrome coronavirus 2
10 (SARS-CoV-2) that was the subject of the public health
11 emergency declared by the governor under W.S.
12 35-4-115(a)(i) on March 13, 2020;

13

14 (iii) "COVID-19 liability claim" means a cause
15 of action for:

16

17 (A) The transmission, infection, exposure
18 or potential exposure of COVID-19 to a claimant:

19

20 (I) At any health care facility or on
21 any person's or entity's premises that resulted in injury
22 to or death of the claimant; or

23

1 (II) Caused by the actions of any
2 health care provider or other person that resulted in
3 injury to or death of the claimant.

4

5 (B) Acts or omissions by a health care
6 facility or provider in arranging for or providing health
7 care services or medical care to the claimant that resulted
8 in injury to or death of the claimant, or where the
9 response to COVID-19 reasonably interfered with the
10 arranging for or the providing of health care services or
11 medical care for the claimant; or

12

13 (C) Manufacturing, labeling, donating or
14 distributing personal protective equipment or sanitizer
15 that is directly related to the provision of personal
16 protective equipment or sanitizer to the claimant by any
17 person or entity during the public health emergency
18 declared under COVID-19 that departs from the normal
19 manufacturing, labeling, donating or distributing of
20 personal protective equipment by an entity and that
21 proximately causes injury to or the death of the claimant.

22

1 (iv) "Personal protective equipment" means
2 equipment worn to minimize exposure to hazards that cause
3 injury or illness, including gloves, masks, face shields,
4 safety glasses, shoes, earplugs, muffs, respirators,
5 coveralls, vests and full body suits;

6

7 (v) "Sanitizer" means any substance generally
8 used to decrease infectious agents including viruses on the
9 body, objects or other spaces that receive human contact.

10

11 (b) Subject to subsection (c) of this section, in any
12 action involving a COVID-19 liability claim against a
13 person or entity, there shall be a rebuttable presumption
14 that the claimant accepted and assumed the risk when:

15

16 (i) Upon entering the premises of another person
17 or entity and when one (1) of the following circumstances
18 existed:

19

20 (A) The person or entity issued the
21 claimant a receipt, proof of purchase for entry or other
22 ticket or document that included a statement, in not less
23 than ten (10) point font placed apart from any other text,

1 with the following warning: "Any person entering the
2 premises waives all civil liability against the owner and
3 operator for any injuries caused by the inherent risk
4 associated with contracting COVID-19 at public gatherings,
5 except for gross negligence or willful or wanton
6 misconduct.";

7

8 (B) The person or entity, including a
9 health care provider or facility, posted at the point of
10 entry to the premises a sign with font not less than one
11 (1) inch in size, the following written warning: "Under
12 Wyoming law, there is no liability for an injury or death
13 of a person entering these premises if the injury or death
14 results from the inherent risks of contracting or being
15 exposed to COVID-19. By entering these premises, you are
16 accepting and assuming this risk."

17

18 (c) The assumption of risk specified in subsection
19 (b) of this section shall not apply to acts or omissions
20 constituting gross negligence or willful or wanton
21 misconduct.

22

1 (d) Nothing in this section shall be construed to
2 limit or restrict the immunity available in W.S.
3 35-4-114(d) or any other immunity available under law.

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5 **Section 2.** W.S. 35-4-114(a) and by creating new
6 subsections (d) and (e) is amended to read:

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8 **35-4-114. Immunity from liability.**

9

10 (a) During a public health emergency as defined by
11 W.S. 35-4-115(a)(i) and subject to subsection (d) of this
12 section, any health care provider or other person,
13 including a business entity, who in good faith follows the
14 instructions of a state, city, town or county health
15 officer or who acts in good faith in responding to the
16 public health emergency is immune from any liability
17 arising from complying with those instructions or acting in
18 good faith. This immunity shall apply to health care
19 providers who are retired, who have an inactive license or
20 who are licensed in another state without a valid Wyoming
21 license and while performing as a volunteer during a
22 declared public health emergency as defined by W.S.
23 35-4-115(a)(i). This immunity shall not apply to acts or

1 omissions constituting gross negligence or willful or
2 wanton misconduct.

3
4 (d) Any health care provider, person or entity shall
5 be immune from liability for damages in an action involving
6 a COVID-19 liability claim unless the person seeking
7 damages proves that the health care provider, person or
8 entity took actions that constitutes gross negligence or
9 willful or wanton misconduct. Nothing in this subsection
10 shall be construed to limit any other immunity available
11 under law, including the immunity provided in subsection
12 (a) of this section. As used in this subsection, "COVID-19
13 liability claim" means as defined by W.S. 1-1-141(a)(iii).

14
15 (e) Any acts or omissions constituting the basis of a
16 COVID-19 liability claim as defined by W.S. 1-1-141(a)(iii)
17 shall be stated with particularity and shall be proven by
18 clear and convincing evidence.

19
20 **Section 3.** Notwithstanding W.S. 35-4-114(d), as
21 created by Section 2 of this act, this act shall apply to
22 all actions and omissions that cause injury occurring on
23 and after the effective date of this act.

1

2 **Section 4.** This act is effective immediately upon
3 completion of all acts necessary for a bill to become law
4 as provided by Article 4, Section 8 of the Wyoming
5 Constitution.

6

7

(END)