

ENROLLED ACT NO. 57, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

AN ACT relating to public health and safety; specifying the assumption of risk for exposure to or contracting COVID-19; defining terms related to the assumption of risk for COVID-19; amending provisions related to immunity from civil liability for actions and omissions during the public health emergency declared for COVID-19; amending time period for which the worker's compensation program covers COVID-19 infections; specifying applicability; and providing for an effective date.

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

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

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

(a) As used in this section:

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

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

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

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

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

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

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

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

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

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

(b) Subject to subsection (c) of this section, in any action involving a COVID-19 liability claim against a person or entity, there shall be a rebuttable presumption that the claimant accepted and assumed the risk of catching COVID-19 if the claimant entered the premises of another person or entity.

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

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

Section 2. W.S. 27-14-102(a)(xi)(A), 35-4-114(a) and by creating new subsections (d) and (e) are amended to read:

27-14-102. Definitions.

(a) As used in this act:

(xi) "Injury" means any harmful change in the human organism other than normal aging and includes damage to or loss of any artificial replacement and death, arising out of and in the course of employment while at work in or about the premises occupied, used or controlled by the employer and incurred while at work in places where the employer's business requires an employee's presence and

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which subjects the employee to extrahazardous duties incident to the business. "Injury" does not include:

(A) Any illness or communicable disease unless the risk of contracting the illness or disease is increased by the nature of the employment. For the period beginning January 1, 2020 through ~~December 30, 2020~~ March 31, 2022 unless otherwise extended by the legislature, if any employee in an employment sector for which coverage is provided by this act is infected with the COVID-19 Coronavirus, it shall be presumed that the risk of contracting the illness or disease was increased by the nature of the employment;

35-4-114. Immunity from liability.

(a) During a public health emergency as defined by W.S. 35-4-115(a)(i) and subject to subsection (d) of this section, any health care provider or other person, including a business entity, who in good faith follows the instructions of a state, city, town or county health officer or who acts in good faith in responding to the public health emergency is immune from any liability arising from complying with those instructions or acting in good faith. This immunity shall apply to health care providers who are retired, who have an inactive license or who are licensed in another state without a valid Wyoming license and while performing as a volunteer during a declared public health emergency as defined by W.S. 35-4-115(a)(i). This immunity shall not apply to acts or omissions constituting gross negligence or willful or wanton misconduct.

(d) Any health care provider, person or entity shall be immune from liability for damages in an action involving

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a COVID-19 liability claim unless the person seeking damages proves that the health care provider, person or entity took actions that constitutes gross negligence or willful or wanton misconduct. Nothing in this subsection shall be construed to limit any other immunity available under law, including the immunity provided in subsection (a) of this section. As used in this subsection, "COVID-19 liability claim" means as defined by W.S. 1-1-141(a)(iii).

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

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

ORIGINAL SENATE
FILE NO. SF0019

ENGROSSED

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk