

MINUTES
HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
YOUNG SUBCOMMITTEE
Coronavirus Liability

DATE: Wednesday, February 03, 2021
TIME: 3:00 P.M.
PLACE: Room EW42
MEMBERS: Chairman Young, Representatives Troy, Nate, Cannon, Skaug, Marshall, Ruchti
**ABSENT/
EXCUSED:** None
GUESTS: Alex LaDeu

Chairwoman Young called the meeting to order at 3:02 p.m.

Chairwoman Young explained the committee will be discussing the following agenda items: a) Should the sunset date be modified or allowed to expire? b) If the date is to be modified, should it be eliminated altogether or extended? c) If it is decided to extend the date, is the granted immunity appropriate or should it be modified? d) As a whole, would the resultant state of tort law represent an appropriate balance between the public's right to seek redress and the need to conduct their activities in a reasonable manner without the burden of meritless litigation?

ORIGINAL MOTION: **Rep. Troy** made a motion to recommend to the full committee the sunset date be extended to July 1, 2022.

Speaking to the motion, **Rep. Troy** explained there are different types of insurance providers. Idaho's economy is leading the nation, and there needs to be more time to make sure businesses continue to grow.

Rep. Marshall mentioned concern with extending the sunset. He said people were okay with **H 6** in part because of the sunset's current date. An extension might be seen as a deviation from the legislation's original intent.

SUBSTITUTE MOTION: **Rep. Nate** made a substitute motion to recommend to the full committee to allow the sunset date in **H 6** to remain unchanged.

Speaking to the substitute motion, **Rep. Nate** stated he is not at a level of comfort for businesses to be protected from liability for not enforcing a mask mandate. He said the statute offers limited liability, but not blanket liability.

Rep. Ruchti gave examples of how **H 6** improves business certainty. He said potential COVID-19 liability is unclear, protecting businesses was and remains the purpose of **H 6**. He explained this is a temporary solution to a temporary problem.

Chairwoman Young stated Idaho is not yet through the uncertainty that has come with COVID-19. At this point in time, there are a lot of schools and businesses that are still nervous about reopening and being able to conduct business without the risk of COVID-19 related lawsuits. She supports extending the sunset date to July 1, 2022, with the idea being this is under temporary, specific circumstances.

Rep. Nate elaborated on his substitute motion, stating the substitute motion is not meant to imply that Idaho is through with COVID-19, rather, the title and chapter aren't doing what was intended. **H 6** could lead to businesses being liable for "willful misconduct" if they are found not enforcing mask mandates. He said he is not opposed to future legislation being approved and voted on, but **H 6** should be allowed to sunset.

Rep. Cannon spoke in **opposition** to the substitute motion and that the sunset date for **H 6** should be extended to July 1, 2022.

Rep. Skaug supports the one-year extension being proposed.

**ROLL CALL
VOTE ON
SUBSTITUTE
MOTION:**

Roll call vote was requested. **The substitute motion failed by a vote of 3 AYE and 4 NAY. Voting in favor** of the substitute motion; **Reps. Skaug, Ruchti, Young, and Troy. Voting in opposition** to the substitute motion: **Reps. Cannon, Nate, and Marshall.**

**VOTE ON
ORIGINAL
MOTION:**

Original motion carried by voice vote.

The subcommittee discussed the addition of a section to code to indicate this chapter shall not be construed as creating liability for intentional tort, or for willful or reckless misconduct and new legislation would need to come forward to make any additions to the statute. Subcommittee members discussed if businesses would become enforcers of state law and possible clarifying language could be added. Subcommittee members explained how **H 6** does not create a new standard of care for businesses and schools but allows a jury to make decisions on recklessness and willful misconduct. Other subcommittee members stated this should protect businesses from frivolous lawsuits while avoiding becoming enforcers of state law.

MOTION:

Rep. Troy made a motion to recommend to the full committee, it proceed with the original language provided in the August 2020 Extraordinary Session, with the previously mentioned extension of the sunset date. **Motion carried by voice vote.**

ADJOURN:

There being no further business to come before the subcommittee, the meeting adjourned at 3:43 p.m.

Representative Young
Chair

Jensen Thomas
Secretary