

## **Proposed Amendment To RS 28044-7**

- At the end of section 2, insert a new paragraph  
(x\*) The immunity provided in this section shall not apply to causes of action brought against the State of Idaho, its officers, agencies, or political subdivisions challenging the legality or constitutionality of any declaration of emergency, agency rule, regulation, statute, ordinance or public health order irrespective of the remedy sought.

*\*Paragraph number to be determined by drafter and other amendments.*



LEGISLATURE OF THE STATE OF IDAHO



Sixty-fifth Legislature

Second Regular Session - 2020

IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT

RELATING TO CIVIL LIABILITY; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 16, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-1608, IDAHO CODE, TO PROVIDE IMMUNITY FROM CIVIL LIABILITY FOR ACTIONS TAKEN IN GOOD FAITH TO ADDRESS OR AMELIORATE A DISASTER OR EMERGENCY, TO DEFINE A TERM, AND TO PROVIDE APPLICABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. In enacting this legislation, it is the intent of the legislature to limit liability by providing a safe harbor to all persons during disasters or emergencies who make good faith efforts to meet the requirements occasioned by such an event. The immunity is meant to apply broadly to any and all individuals and private and public entities in any location and at any time, including without limitation, providers of goods and services, owners and operators of any premises such as stores, restaurants, bars, hotels, assisted living facilities, offices, schools, libraries, hospitals, medical clinics, residences, homes, churches, day care facilities, and the like that function or operate during the disaster or emergency and to those whose normal activities are interrupted by the disaster or emergency but who make good faith efforts to continue those activities safely during the disaster or emergency.

SECTION 2. That Chapter 16, Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 6-1608, Idaho Code, and to read as follows:

6-1608. IMMUNITY FROM CIVIL LIABILITY DURING A DECLARED DISASTER OR EMERGENCY. (1) A person who acts during a disaster or emergency declared by the governor pursuant to chapter 10, title 46, Idaho Code, in an effort to address or ameliorate the declared disaster or emergency or to adapt behavior on account of the declared disaster or emergency or who makes a considered determination that no adaptation to necessary behavior during the declared disaster or emergency is practical shall be immune from civil liability for acts or omissions made in good faith, unless those acts or omissions constitute an intentional tort or willful or reckless misconduct, as defined in section 6-1601, Idaho Code.

(2) The immunity provided in this section shall not apply if a person fails to make a good faith effort to comply with a statute, rule, or lawful order of a government entity in effect at the time and such failure is the proximate cause of injury to another, nor shall it apply to acts or omissions that occur during a declared disaster or emergency that are unrelated to or unaffected by the declared disaster or emergency.

1 (3) Noncompliance with guidelines or recommendations related to a de-  
2 clared disaster or emergency alone shall not be used to establish civil lia-  
3 bility.

4 (4) For the purposes of this section, "person" means any entity recog-  
5 nized in this state and shall include but not be limited to an individual,  
6 corporation, limited liability company, partnership, trust, association,  
7 city, county, school district, other unit of local government, or the state  
8 of Idaho and any agency or subdivision thereof.

9 (5) The provisions of this section shall not modify the application of  
10 worker's compensation laws as provided in chapters 1 through 9, 13, and 14,  
11 title 72, Idaho Code.

12 (6) The immunity provided in this section shall be in addition to any  
13 other immunity protections that may apply in state or federal law.

14 (7\*) The immunity provided in this section shall not apply to causes of action  
15 brought against the State of Idaho, its officers, agencies, or political  
16 subdivisions challenging the legality or constitutionality of any  
declaration of emergency, agency rule, regulation, statute, ordinance or  
public health order irrespective of the remedy sought.

SECTION 3. An emergency existing therefor, which emergency is hereby  
declared to exist, this act shall be in full force and effect on and after its  
passage and approval.