

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 5

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

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 CORONAVIRUS-RELATED DISASTER OR EMERGENCY, TO PROVIDE APPLICABILITY, TO PROVIDE CERTAIN EXEMPTIONS, AND TO DEFINE TERMS; DECLARING AN EMERGENCY; AND PROVIDING A SUNSET DATE.

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 arising from the exposure to or the transmission of the coronavirus by providing a safe harbor to all persons during disasters or emergencies arising from a coronavirus-related pandemic or epidemic who make good faith efforts to meet the requirements occasioned by such an event. Unless specifically excluded by section 6-1608, Idaho Code, 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, colleges, universities and other institutions of higher education, libraries, hospitals, medical clinics, residences, homes, churches, daycare facilities, and the like that function or operate during the coronavirus-related 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 coronavirus-related 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 chapters 6 and 10, title 46, Idaho Code, that is occasioned by a coronavirus-related pandemic or epidemic in an effort to address or mitigate the disaster or emergency arising from a coronavirus-related pandemic or epidemic or to adapt behavior on account of the declared coronavirus-related disaster or emergency or who makes a considered determination that no adaptation to necessary behavior during the declared coronavirus-related 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.

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

8 (3) Noncompliance with guidelines or recommendations related to a de-
9 clared coronavirus-related disaster or emergency alone shall not be used to
10 establish civil liability.

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

14 (5) The immunity provided in this section shall be in addition to any
15 other immunity protections that may apply in state or federal law.

16 (6) The provisions of this section shall be effective only upon causes
17 of action arising in tort.

18 (7) The immunity provided in this section shall not apply to causes of
19 action brought against the state of Idaho, its officers, agencies, or polit-
20 ical subdivisions challenging the legality or constitutionality of any dec-
21 laration of emergency, agency rule, regulation, statute, ordinance, or pub-
22 lic health order, irrespective of the remedy sought.

23 (8) For purposes of this section:

24 (a) "Coronavirus" means:

25 (i) Severe acute respiratory syndrome coronavirus 2;

26 (ii) The disease caused by severe acute respiratory syndrome
27 coronavirus 2; or

28 (iii) Any subsequently identified mutation, modification, or
29 strain of coronavirus if the transmission of said virus among hu-
30 mans rises to the level of an epidemic or pandemic and qualifies
31 for an emergency declaration under applicable Idaho law.

32 (b) "Epidemic" means an outbreak of a virus or communicable dis-
33 ease that differs in its makeup from current and recently circulating
34 viruses or diseases and is actively spreading within this state or re-
35 gion.

36 (c) "Pandemic" means a global outbreak of a virus or communicable dis-
37 ease that differs in its makeup from current and recently circulating
38 viruses or diseases and is actively spreading between international
39 boundaries affecting a high proportion of the population either by the
40 number of cases or the sudden rise in the incidence of the virus or dis-
41 ease.

42 (d) "Person" means any entity recognized in this state and shall
43 include but not be limited to an individual, corporation, limited lia-
44 bility company, partnership, trust, association, city, county, school
45 district, college, university or other institution of higher educa-
46 tion, or other unit of local government. However, "person" shall not
47 include any Idaho public health district; the federal government or any
48 of its agencies; the state of Idaho or any of its agencies, except col-
49 leges, universities, and other institutions of higher education; nor
50 any foreign government or foreign jurisdiction.

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

4 SECTION 4. The provisions of Sections 1 and 2 of this act shall be null,
5 void, and of no force and effect on and after July 1, 2021.