



SF0019

Public health emergencies-immunity amendments.

Sponsored By: Joint Judiciary Interim Committee

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.

12/28/2020 Bill Number Assigned  
1/12/2021 S Received for Introduction  
1/12/2021 S Introduced and Referred to S01 - Judiciary  
1/27/2021 S01 - Judiciary:Recommend Amend and Do Pass 5-0-0-0

ROLL CALL

**Ayes:** Senator(s) Cooper, French, Kolb, Kost, Nethercott  
**Ayes** 5    **Nays** 0    **Excused** 0    **Absent** 0    **Conflicts** 0

1/27/2021 S Placed on General File

**SF0019SS001/FAILED**

Page 1-lines 9 and 10 Delete entirely and insert:

"**Section 1.** W.S. 35-4-114 by creating new subsections (d) and (e) is amended to read:".

Page 1-lines 14 through 16 Delete entirely.

Page 2-lines 1 through 17 Delete entirely and insert:

"(d) During a public health emergency as defined by W.S. 35-4-115(a)(i), any person or entity who is in substantial compliance with orders, guidance or instructions or who in good faith follows the instructions of the state health officer or a Wyoming 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 acts or omissions of the person or entity that caused another to be exposed to or contract the disease, agent or toxin for which the public health emergency is declared. This immunity shall not apply to acts or omissions constituting gross negligence or willful or wanton misconduct, and any alleged acts or omissions constituting the basis of a civil action shall be stated with particularity and shall be proven by clear and convincing evidence."

Page 2-line 19 Delete "(d)" and insert "(e)"; delete "subsection (a) of".

Page 3-line 4 Delete "35-4-114(d)" and insert "35-4-114(e)".  
NETHERCOTT, CHAIRMAN

**SF0019SW001/ADOPTED**

Delete the Senate standing committee amendment (SF0019SS001/A) entirely and further amend as follows:

Page 1-line 1                   After "safety;" insert "specifying the assumption of risk for exposure to or contracting COVID-19; defining terms related to the assumption of risk for COVID-19;".

Page 1-line 3                   Delete "public health emergencies" and insert "the public health emergency declared for COVID-19".

Page 1-after line 7            Insert:

**"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:

(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;

(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 when:

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

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

Any person entering the premises waives all civil liability against the owner and operator for any injuries caused by the inherent risk associated with contracting COVID-19 at public gatherings, except for gross negligence or willful or wanton misconduct.

(B) The person or entity, including a health care provider or facility, posted at the point of entry to the premises a sign with font not less than one (1) inch in size, the following written warning:

Under Wyoming law, there is no liability for an injury or death of a person entering these premises if the injury or death results from the inherent risks of contracting or being exposed to COVID-19. By entering these premises, you are accepting and assuming this risk.

(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."

Page 1-lines 9 and 10 Delete entirely and insert:

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

Page 1-line 15 Reinsert all stricken language; after "35-4-115(a)(i)" insert "and subject to subsection (d) of this section".

Page 1-line 16 Reinsert all stricken language; delete all new language.

Page 2-lines 1 through 17 Reinsert all stricken language; delete all new language.

Page 2-lines 19 through 22 Delete entirely.

Page 3-lines 1 and 2 Delete entirely and insert:

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

Page 3-line 4 Delete "**Section 2.**" and insert "**Section 3.**".

Page 3-line 5 Delete "Section 1" and insert "Section 2".

Page 3-line 9 Delete "**Section 3.**" and insert "**Section 4.**". NETHERCOTT

3/1/2021 S COW:Passed  
3/2/2021 S 2nd Reading:Passed  
3/3/2021 S 3rd Reading:Passed 23-7-0-0-0

#### ROLL CALL

**Ayes:** Senator(s) Anderson, Baldwin, Boner, Case, Cooper, Dockstader, Driskill, Ellis, Furphy, Gierau, Hicks, Hutchings, Kinskey, Kolb, Kost, Landen, Nethercott, Pappas, Perkins, Schuler, Scott, Steinmetz, Wasserburger

**Nays:** Senator(s) Biteman, Bouchard, French, James, Mckeown, Rothfuss, Salazar

**Ayes** 23    **Nays** 7    **Excused** 0    **Absent** 0    **Conflicts** 0

3/4/2021 H Received for Introduction  
3/19/2021 H Introduced and Referred to H01 - Judiciary  
3/25/2021 H01 - Judiciary:Recommend Amend and Do Pass 6-3-0-0-0

#### ROLL CALL

**Ayes:** Representative(s) Crago, Oakley, Olsen, Rodriguez-Williams, Washut, Zwonitzer

**Nays:** Representative(s) Laursen, Provenza, Yin

**Ayes** 6    **Nays** 3    **Excused** 0    **Absent** 0    **Conflicts** 0

3/25/2021 H Placed on General File

#### SF0019HS001/ADOPTED (TO ENGROSSED COPY)

Page 4-line 14 After "risk" delete "when:" and insert "of catching COVID-19 if the claimant entered the premises of another person or entity."

Page 4-lines 16 through 23 Delete entirely.

Page 5-lines 1 through 16 Delete entirely. OLSEN, CHAIRMAN

#### SF0019HW001/ADOPTED (TO ENGROSSED COPY)

Page 1-line 6 After "COVID-19;" insert "amending time period for which the worker's compensation program covers COVID-19 infections;"

Page 6-line 5 After "W.S." insert "27-14-102(a)(xi)(A),"

Page 6-line 6                    After "and (e)" delete "is" and insert "are".

Page 6-after line 6                Insert:

**"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 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;". YIN, CRAGO

3/29/2021     H COW:Passed

**SF0019H2001/FAILED                    (TO ENGROSSED COPY)**

Page 6-line 5                    After "creating" insert "a".

Page 6-line 6                    Delete "subsections (d) and (e)" and insert "subsection (d)".

Page 7-lines 15 through 18     Delete entirely. STITH

3/30/2021     H 2nd Reading:Passed

3/31/2021     H 3rd Reading:Passed 38-22-0-0-0

**ROLL CALL**

**Ayes:** Representative(s) Andrew, Banks, Barlow, Blackburn, Brown, Clausen, Crago, Duncan, Eklund, Eyre, Flitner, Gray, Haroldson, Harshman, Heiner, Henderson, Hunt, Kinner, Larsen, L, Macguire, Martinez, Neiman, Newsome, Oakley, Obermueller, O'hearn, Olsen, Paxton, Schwartz, Sherwood, Simpson, Sommers, Sweeney, Walters, Washut, Williams, Wilson, Zwonitzer

**Nays:** Representative(s) Baker, Bear, Burkhart, Burt, Clifford, Connolly, Fortner, Greear, Hallinan, Jennings, Knapp, Laursen, D, Nicholas, Ottman, Provenza, Roscoe, Stith, Styvar, Western, Wharff, Winter, Yin

**Ayes 38     Nays 22     Excused 0     Absent 0     Conflicts 0**

4/1/2021     S Received for Concurrence

4/1/2021     S Concur:Passed 27-3-0-0-0

**ROLL CALL**

**Ayes:** Senator(s) Anderson, Baldwin, Boner, Case, Cooper, Dockstader, Driskill, Ellis, French, Furphy, Gierau, Hicks, Hutchings, James, Kinskey, Kolb, Kost, Landen, Mckeown, Nethercott, Pappas, Perkins, Salazar, Schuler, Scott, Steinmetz, Wasserburger

**Nays:** Senator(s) Biteman, Bouchard, Rothfuss

**Ayes** 27      **Nays** 3      **Excused** 0      **Absent** 0      **Conflicts** 0

4/1/2021      Assigned Number SEA No. 0057  
4/2/2021      S President Signed SEA No. 0057  
4/2/2021      H Speaker Signed SEA No. 0057  
4/6/2021      Governor Signed SEA No. 0057  
4/6/2021      Assigned Chapter Number 118

Chapter No. 118    Session Laws of Wyoming 2021