

2020 SPECIAL SESSION I

HOUSE SUBSTITUTE
REPRINT

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HOUSE BILL NO. 5074

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee for Courts of Justice
on August 26, 2020)

(Patrons Prior to Substitute—Delegates Sullivan, Miyares [HB 5037], O'Quinn [HB 5040], Ransone [HB 5110], and Runion [HB 5019])

A BILL to provide immunity from civil claims related to the transmission of or exposure to the COVID-19 virus; emergency.

Be it enacted by the General Assembly of Virginia:

1. § 1. A. For the purposes of this act, unless the context requires otherwise:

"Person" includes (i) individuals, corporations, nonprofit corporations, business trusts, estates, trusts, partnerships, limited liability companies, sole proprietorships, associations, and joint ventures; (ii) the Commonwealth, any political subdivision of the Commonwealth, or any locality, or any agent thereof, or any person acting on behalf of the Commonwealth or any political subdivision of the Commonwealth or locality; and (iii) any other legal or commercial entity.

B. In the absence of gross negligence or willful misconduct, no person shall be liable for any civil cause of action arising from any act or omission alleged to have resulted in the contraction of or exposure to the COVID-19 virus, provided that, with respect to the location at issue, such person has complied with the most recent binding applicable federal, state, and local laws, policies, procedures, and guidance regarding COVID-19 at the time the cause of action accrued, including without limitation and at a minimum the COVID-19 Emergency Temporary Standard or any COVID-19 Permanent Standard, whichever is then in effect. The person shall bear the burden of proving entitlement to the immunity provided herein.

C. Every person shall provide, with respect to any location owned by the person or under the person's possession, custody, or control, reasonable notice of actions taken by the person for the purpose of reducing the risk of transmission of COVID-19 to individuals present on the premises. In the absence of gross negligence or willful misconduct, no person shall be liable for the failure of any individual not under the control of such person to comply with rules, policies, or guidelines contained in the notice required by this act. This act shall not apply to any premises owned by an individual, other than a premises that is used in the operation of a sole proprietorship.

D. The provisions of this act shall not limit or abrogate any other defenses or immunities available at law.

E. The provisions of this act shall not apply to claims before the Virginia Workers' Compensation Commission seeking benefits payable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq. of the Code of Virginia) or to any appeals of such claims that must be subsequently adjudicated in a court. The provisions of this act do not create a defense to liability in any administrative proceeding or civil action brought to enforce the provisions of the COVID-19 Emergency Temporary Standard or any COVID-19 Permanent Standard, whichever is then in effect.

2. That an emergency exists and this act is in force from its passage.

3. That the provisions of this act shall apply to claims arising no later than 180 days after the expiration or revocation of all states of emergency declared by the Governor related to the COVID-19 pandemic.

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