

Proposed Amendment To RS 28044 – 1

Limiting the scope of recommended legislation to disasters or emergencies related to a pandemic or epidemic.

- Page 1, Line 10: after “disasters or emergencies” insert “arising from a pandemic or epidemic”
- Page 1, Line 17-18: after “during the” and before “disaster or emergency” insert “pandemic or epidemic-related”
- Page 1, Line 20: after “during the” and before “disaster or emergency” insert “pandemic or epidemic-related”
- Page 1, Line 26: after “pursuant to chapter” insert “s 6 or”
- Page 1, Line 26: after “Idaho Code,” insert “that is occasioned by a coronavirus-related pandemic or epidemic”
- Page 1, Line 27: strike “ameliorate the declared disaster or emergency” and insert “mitigate the disaster or emergency arising from a pandemic or epidemic”
- Page 1, Line 38: after “during a declared” and before “disaster or emergency” insert “pandemic or epidemic-related”
- Page 1, Line 39: after “by the” and before “declared disaster” insert “pandemic or epidemic-related”
- Page 2, Lines 1-2: after “related to a” and before “declared disaster or emergency” insert “pandemic or epidemic-related”
- At the end of section 2, insert 2 new paragraphs
(x*) For the purposes of this section, “pandemic” means a global outbreak of a virus or communicable disease that differs in its make-up from current and recently circulating viruses or diseases, and is actively spreading between international boundaries affecting a high proportion of the population either by the number of cases or the sudden rise in the incidence of the virus or disease.
(x*) For the purposes of this section, “epidemic” means an outbreak of a virus or communicable disease that differs in its make-up from current and recently circulating viruses or diseases, and is actively spreading within this state or region.

**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 arising from a pandemic or epidemic 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 pandemic or epidemic-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 pandemic or epidemic-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 pandemic or epidemic in an effort to address or ~~ameliorate the declared disaster or emergency~~ mitigate the disaster or emergency arising from a pandemic or epidemic 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 pandemic or epidemic-related disaster or emergency that are unrelated to or unaffected by the declared pandemic or epidemic-related disaster or emergency.

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

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16 (7*) For the purposes of this section, "pandemic" means a global
outbreak of a virus or communicable disease that differs in its make-up from
current and recently circulating viruses or diseases, and is actively
spreading between international boundaries affecting a high proportion of
the population either by the number of cases or the sudden rise in the
incidence of the virus or disease.

(8*) For the purposes of this section, "epidemic" means an outbreak of
virus or communicable disease that differs in its make-up from current and
recently circulating viruses or diseases, and is actively spreading within
this state or region.

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.