

SENATE BILL 210

D1

(PRE-FILED)

1r1008
CF 1r1844

By: **Senators West, Carozza, Hester, and Peters**

Requested: October 16, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **COVID-19 Claim – Civil Immunity**

3 FOR the purpose of providing immunity from civil liability for a COVID-19 claim to a
4 person who acts in compliance with certain statutes, rules, regulations, executive
5 orders, and agency orders, unless the person acted with gross negligence or
6 intentional wrongdoing; providing that certain deviations from certain statutes,
7 rules, regulations, executive orders, and agency orders does not deny a person civil
8 immunity provided under this Act; limiting the effect of the civil immunity provided
9 under this Act; making the provisions of this Act severable; providing for the
10 retroactive application of this Act to a claim that arises on or after a certain date and
11 on or before a certain time period after a certain proclamation issued by the Governor
12 expires or is rescinded; defining certain terms; and generally relating to civil
13 immunity for COVID-19 claims.

14 BY adding to
15 Article – Courts and Judicial Proceedings
16 Section 5-809
17 Annotated Code of Maryland
18 (2020 Replacement Volume)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Courts and Judicial Proceedings**

22 **5-809.**

23 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
24 **INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) “COVID-19” MEANS THE NOVEL CORONAVIRUS IDENTIFIED AS**
2 **SARS-CoV-2 OR A VIRUS MUTATING FROM SARS-CoV-2, THE DISEASE CAUSED**
3 **BY THE NOVEL CORONAVIRUS SARS-CoV-2, AND CONDITIONS ASSOCIATED WITH**
4 **THE DISEASE.**

5 **(3) (I) “COVID-19 CLAIM” MEANS A CLAIM OR CAUSE OF ACTION**
6 **FOR DAMAGES, LOSSES, INDEMNIFICATION, CONTRIBUTION, OR OTHER RELIEF**
7 **ARISING OUT OF, BASED ON, OR IN ANY WAY RELATED TO EXPOSURE OR POTENTIAL**
8 **EXPOSURE TO COVID-19, OR TO CONDUCT INTENDED TO REDUCE TRANSMISSION**
9 **OF COVID-19.**

10 **(II) “COVID-19 CLAIM” INCLUDES A CLAIM MADE BY OR ON**
11 **BEHALF OF AN INDIVIDUAL WHO HAS BEEN EXPOSED OR POTENTIALLY EXPOSED TO**
12 **COVID-19, OR ANY REPRESENTATIVE, SPOUSE, PARENT, CHILD, MEMBER OF THE**
13 **SAME HOUSEHOLD, OR OTHER RELATIVE OF THE INDIVIDUAL FOR THE INJURY,**
14 **INCLUDING MENTAL OR EMOTIONAL INJURY, DEATH, LOSS TO PERSON, RISK OF**
15 **DISEASE, OR OTHER INJURY, COSTS OF MEDICAL MONITORING OR SURVEILLANCE,**
16 **OR OTHER LOSSES ALLEGEDLY CAUSED BY THE INDIVIDUAL’S EXPOSURE OR**
17 **POTENTIAL EXPOSURE TO COVID-19.**

18 **(III) “COVID-19 CLAIM” DOES NOT INCLUDE AN**
19 **ADMINISTRATIVE PROCEEDING OR CIVIL ACTION BROUGHT BY A STATE OR LOCAL**
20 **GOVERNMENT PROSECUTOR OR AGENCY TO ENFORCE STATE STATUTES AND**
21 **REGULATIONS, EXECUTIVE ORDERS, OR STATE AGENCY ORDERS APPLICABLE TO**
22 **COVID-19.**

23 **(4) (I) “PERSON” MEANS AN INDIVIDUAL, A BUSINESS ENTITY, A**
24 **GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY, INCLUDING:**

25 **1. AN ORGANIZATION THAT IS EXEMPT OR ELIGIBLE FOR**
26 **EXEMPTION FROM TAXATION UNDER § 510(C)(3) OF THE INTERNAL REVENUE**
27 **CODE;**

28 **2. A PARTNERSHIP, A CORPORATION, AN ASSOCIATION,**
29 **A LIMITED LIABILITY COMPANY, A BUSINESS TRUST, AN ESTATE, A TRUST, AND A**
30 **JOINT VENTURE;**

31 **3. A SCHOOL AND AN INSTITUTION OF HIGHER**
32 **EDUCATION; AND**

33 **4. A HEALTH CARE FACILITY, AS DEFINED IN § 19-114**
34 **OF THE HEALTH – GENERAL ARTICLE, AND ANY PHYSICIAN OR OTHER PERSON**

1 LICENSED OR OTHERWISE AUTHORIZED IN THE STATE TO FURNISH HEALTH CARE
2 SERVICES, INCLUDING A DENTIST, A PODIATRIST, AN OPTOMETRIST, A PHARMACIST,
3 A PSYCHOLOGIST, A CLINICAL SOCIAL WORKER, AN ADVANCED PRACTICE
4 REGISTERED NURSE, AND A REGISTERED OPTICIAN.

5 (II) "PERSON" INCLUDES AN EMPLOYEE, AGENT, OR
6 INDEPENDENT CONTRACTOR, WHETHER PAID OR UNPAID.

7 (B) THIS SECTION APPLIES ONLY TO A COVID-19 CLAIM THAT AROSE
8 BETWEEN MARCH 5, 2020, AND 180 DAYS AFTER THE EXPIRATION OR RESCISSION
9 OF THE GOVERNOR'S PROCLAMATION OF MARCH 5, 2020, "DECLARATION OF STATE
10 OF EMERGENCY AND EXISTENCE OF CATASTROPHIC HEALTH
11 EMERGENCY- COVID-19".

12 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON
13 WHO ACTS IN COMPLIANCE WITH ALL FEDERAL, STATE, AND LOCAL STATUTES,
14 RULES, REGULATIONS, EXECUTIVE ORDERS, AND AGENCY ORDERS RELATED TO
15 COVID-19 THAT HAD NOT BEEN DENIED LEGAL EFFECT AT THE TIME OF THE
16 CONDUCT OR RISK THAT ALLEGEDLY CAUSED HARM IS IMMUNE FROM CIVIL
17 LIABILITY FOR A COVID-19 CLAIM, UNLESS THE PERSON'S ACTIONS AMOUNT TO
18 GROSS NEGLIGENCE OR INTENTIONAL WRONGDOING.

19 (2) AN ISOLATED, MINOR DEVIATION FROM STRICT COMPLIANCE
20 WITH FEDERAL, STATE, AND LOCAL STATUTES, RULES, REGULATIONS, EXECUTIVE
21 ORDERS, AND AGENCY ORDERS RELATED TO COVID-19 THAT IS UNRELATED TO
22 THE PLAINTIFF'S INJURIES DOES NOT DENY A PERSON THE IMMUNITY PROVIDED
23 UNDER THIS SECTION.

24 (D) THE IMMUNITY GRANTED BY THIS SECTION DOES NOT:

25 (1) CREATE, RECOGNIZE, OR RATIFY A CLAIM OR CAUSE OF ACTION
26 OF ANY KIND;

27 (2) ELIMINATE A REQUIRED ELEMENT OF ANY CLAIM, INCLUDING
28 CAUSATION AND PROXIMATE CAUSE ELEMENTS;

29 (3) AFFECT RIGHTS, REMEDIES, OR PROTECTIONS UNDER THE
30 MARYLAND WORKERS' COMPENSATION ACT, INCLUDING THE EXCLUSIVE
31 APPLICATION OF THAT ACT;

32 (4) AMEND, REPEAL, ALTER, OR AFFECT ANY OTHER IMMUNITY OR
33 LIMITATION OF LIABILITY; OR

1 **(5) CREATE A DEFENSE TO LIABILITY IN AN ADMINISTRATIVE**
2 **PROCEEDING OR CIVIL ACTION BROUGHT BY A STATE OR LOCAL GOVERNMENT**
3 **PROSECUTOR OR AGENCY TO ENFORCE A STATE STATUTE OR REGULATION,**
4 **EXECUTIVE ORDER, OR STATE AGENCY ORDER APPLICABLE TO COVID-19.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
6 the application thereof to any person or circumstance is held invalid for any reason in a
7 court of competent jurisdiction, the invalidity does not affect other provisions or any other
8 application of this Act that can be given effect without the invalid provision or application,
9 and for this purpose the provisions of this Act are declared severable.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
11 apply retroactively and shall be applied to and interpreted to affect any claim arising
12 between March 5, 2020, and 180 days after the expiration or rescission of the Governor's
13 proclamation of March 5, 2020, "Declaration of State of Emergency and Existence of
14 Catastrophic Health Emergency – COVID-19".

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2021.