

SENATE, No. 2634

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 29, 2020

Sponsored by:

Senator VIN GOPAL
District 11 (Monmouth)

Co-Sponsored by:

Senator O'Scanlon

SYNOPSIS

Establishes general immunity for entities, including non-profits and governments, and institutions of higher education, and their officers, employees, and agents, against actions relating to Coronavirus disease 2019 pandemic or related viral strain in subsequent years.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/14/2020)

1 AN ACT establishing general immunity for certain persons and
2 entities, including governmental entities, against legal actions
3 relating to the Coronavirus disease 2019 pandemic, or related
4 viral strain to the pandemic's virus in subsequent years, and
5 supplementing Title 2A of the New Jersey Statutes, and chapters
6 2 and 3 of Title 59 of the New Jersey Statutes.

7
8 **BE IT ENACTED** *by the Senate and General Assembly of the State*
9 *of New Jersey:*

10
11 1. a. As used in this section, "business" means any non-
12 governmental, for-profit or non-profit corporation, company,
13 partnership, firm, sole proprietorship, society, association, business
14 trust, or other form of business organization or entity.

15 Notwithstanding any provisions of law to the contrary, a
16 business, and its trustees, directors, officers, employees, agents,
17 servants, and volunteers, which in good faith reasonably comply
18 with or exceed applicable health and safety measures to prevent or
19 mitigate a person's exposure to the virus SARS-CoV-2 or the
20 disease caused by the virus, Coronavirus disease 2019, also referred
21 to as COVID-19, or a related viral strain to that virus or a disease
22 caused by the related viral strain in subsequent years, which are in
23 effect at the time of an alleged exposure to Sars-CoV-2, a related
24 strain, or disease caused by either one, and which measures are
25 based on guidance, regulations, rules, and administrative orders
26 promulgated by the federal Centers for Disease Control and
27 Prevention, the federal Occupational Safety and Health
28 Administration, the State Departments of Health, Human Services,
29 and Labor and Workforce Development, or any other applicable
30 federal or State department, division, commission, board, bureau, or
31 agency, as well as applicable Executive Orders or portions of those
32 orders issued by the Governor, shall not be liable in any civil
33 action, or subject to any administrative proceeding concerning
34 professional disciplinary action, or suspension, revocation, refusal
35 to issue or refusal to renew any license, certification, certificate, or
36 permit, as applicable, for any act of commission or omission
37 resulting in damages arising from a person's exposure to SARS-
38 CoV-2, a related viral strain, or disease caused by either one.

39 b. (1) The immunity provided to a business, and its trustees,
40 directors, officers, employees, agents, servants, and volunteers by
41 this section applies in addition to any other available immunity, and
42 applies whether the exposure to SARS-CoV-2, a related viral strain,
43 or disease caused by either one, occurred because the person was
44 required to be on the business's property, or entered or remained on
45 the property by express or implied invitation or permission, or
46 exposure occurred at some other place in the course of conducting
47 business, providing services, or doing volunteer work on behalf of
48 the business as authorized by it.

1 (2) Nothing in this section shall be deemed to:

2 (a) grant immunity to any business or person causing damage by
3 a willful, wanton, or grossly negligent act of commission or
4 omission; or

5 (b) affect a worker' compensation claim or award pursuant to
6 any applicable State or federal law.

7

8 2. a. Notwithstanding any provisions of law to the contrary,
9 any public or private institution of higher education, and its
10 trustees, directors, officers, administrators, employees, agents,
11 servants, and volunteers, which in good faith reasonably comply
12 with or exceed applicable health and safety measures to prevent or
13 mitigate a person's exposure to the virus SARS-CoV-2 or the
14 disease caused by the virus, Coronavirus disease 2019, also referred
15 to as COVID-19, or a related viral strain to that virus or a disease
16 caused by the related viral strain in subsequent years, which are in
17 effect at the time of an alleged exposure to SARS-CoV-2, a related
18 strain, or disease caused by either one, and which measures are
19 based on guidance, regulations, rules, and administrative orders
20 promulgated by the federal Centers for Disease Control and
21 Prevention, the federal Occupational Safety and Health
22 Administration, the State Departments of Health, Human Services,
23 and Labor and Workforce Development, the Secretary of Higher
24 Education, or any other applicable federal or State department,
25 division, commission, board, bureau, or agency, as well as
26 applicable Executive Orders or portions of those orders issued by
27 the Governor, shall not be liable in any civil action, or subject to
28 any administrative proceeding concerning professional disciplinary
29 action, or suspension, revocation, refusal to issue or refusal to
30 renew any license, certification, certificate, or permit, as applicable,
31 for any act of commission or omission resulting in damages arising
32 from a person's exposure to SARS-CoV-2, a related viral strain, or
33 disease caused by either one.

34 b. (1) The immunity provided to a public or private institution
35 of higher education, and its trustees, directors, officers,
36 administrators, employees, agents, servants, and volunteers by this
37 section applies in addition to any other available immunity, and
38 applies whether the exposure to SARS-CoV-2, a related viral strain,
39 or disease caused by either one, occurred because the person was
40 required to be on the campus or other property of the institution of
41 higher education, or entered or remained on the campus or other
42 property by express or implied invitation or permission, or exposure
43 occurred at some other place in the course of conducting activities
44 and operations, providing services, or doing volunteer work on
45 behalf of the business as authorized by it.

46 (2) Nothing in this section shall be deemed to:

1 (a) grant immunity to any public or private institution of higher
2 education or person causing damage by a willful, wanton, or grossly
3 negligent act of commission or omission; or

4 (b) affect a worker' compensation claim or award pursuant to
5 any applicable State or federal law.
6

7 3. a. Notwithstanding any provisions of law to the contrary, a
8 public entity, which in good faith reasonably complies with or
9 exceeds applicable health and safety measures to prevent or
10 mitigate a person's exposure to the virus SARS-CoV-2 or the
11 disease caused by the virus, Coronavirus disease 2019, also referred
12 to as COVID-19, or a related viral strain to that virus or a disease
13 caused by the related viral strain in subsequent years, which are in
14 effect at the time of an alleged exposure to Sars-CoV-2, a related
15 strain, or disease caused by either one, and which measures are
16 based on guidance, regulations, rules, and administrative orders
17 promulgated by the federal Centers for Disease Control and
18 Prevention, the federal Occupational Safety and Health
19 Administration, the State Departments of Health, Human Services,
20 and Labor and Workforce Development, or any other applicable
21 federal or State department, division, commission, board, bureau, or
22 agency, as well as applicable Executive Orders or portions of those
23 orders issued by the Governor, shall not be liable in any civil action
24 for any act of commission or omission resulting in damages arising
25 from a person's exposure to SARS-CoV-2, a related viral strain, or
26 disease caused by either one.

27 b. (1) The immunity provided to a public entity by this section
28 applies in addition to any other available immunity, and applies
29 whether the exposure to SARS-CoV-2, a related viral strain, or
30 disease caused by either one, occurred because the person was
31 required to be on the public entity's property, or entered or
32 remained on the property by express or implied invitation or
33 permission, or exposure occurred at some other place in the course
34 of providing government services, or doing volunteer work on
35 behalf of the public entity as authorized by it.

36 (2) Nothing in this section shall be deemed to:

37 (a) grant immunity to any public entity causing damage by a
38 willful, wanton, or grossly negligent act of commission or omission;
39 or

40 (b) affect a worker' compensation claim or award pursuant to
41 any applicable State or federal law.
42

43 4. a. Notwithstanding any provisions of law to the contrary, a
44 public employee, who in good faith reasonably complies with or
45 exceeds applicable health and safety measures to prevent or
46 mitigate a person's exposure to the virus SARS-CoV-2 or the
47 disease caused by the virus, Coronavirus disease 2019, also referred
48 to as COVID-19, or a related viral strain to that virus or a disease

1 caused by the related viral strain in subsequent years, which are in
2 effect at the time of an alleged exposure to Sars-CoV-2, a related
3 strain, or disease caused by either one, and which measures are
4 based on guidance, regulations, rules, and administrative orders
5 promulgated by the federal Centers for Disease Control and
6 Prevention, the federal Occupational Safety and Health
7 Administration, the State Departments of Health, Human Services,
8 and Labor and Workforce Development, or any other applicable
9 federal or State department, division, commission, board, bureau, or
10 agency, as well as applicable Executive Orders or portions of those
11 orders issued by the Governor, shall not be liable in any civil action
12 for any act of commission or omission resulting in damages arising
13 from a person's exposure to SARS-CoV-2, a related viral strain, or
14 disease caused by either one.

15 b. (1) The immunity provided to a public employee by this
16 section applies in addition to any other available immunity, and
17 applies whether the exposure to SARS-CoV-2, a related viral strain,
18 or disease caused by either one, occurred because the person was
19 required to be on the same public property as the public employee,
20 or entered or remained on the property by express or implied
21 invitation or permission, or exposure occurred at some other place
22 in the course of the public employee providing government
23 services, or doing volunteer work on behalf of a public entity as
24 authorized by it.

25 (2) Nothing in this section shall be deemed to:

26 (a) grant immunity to any public employee causing damage by a
27 willful, wanton, or grossly negligent act of commission or omission;
28 or

29 (b) affect a worker's compensation claim or award pursuant to
30 any applicable State or federal law.

31

32 5. This act shall take effect immediately, and apply
33 retroactively to the date that the Public Health Emergency and State
34 of Emergency was declared by the Governor in Executive Order
35 103 of 2020 concerning the coronavirus disease 2019 pandemic.

36

37

38

STATEMENT

39

40 This bill would establish general immunity for business entities,
41 including non-profits, and institutions of higher education, and their
42 officers, employees, agents, and volunteers, as well as public
43 entities, including primary and secondary schools, and their
44 employees, against actions relating to a person's exposure to the
45 virus SARS-CoV-2 or the disease caused by the virus, Coronavirus
46 disease 2019, also referred to as COVID-19, or a related viral strain
47 to that virus or a disease caused by the related viral strain in
48 subsequent years. The immunity would be based on good faith

1 reasonable compliance with or exceeding applicable health and
2 safety measures to prevent or mitigate a person's exposure to
3 SARS-CoV-2, a related viral strain, or disease caused by either one,
4 which are in effect at the time of an alleged exposure to SARS-
5 CoV-2, a related strain, or disease caused by either one, and which
6 measures are based on guidance, regulations, rules, and
7 administrative orders promulgated by applicable federal or State
8 departments, divisions, commissions, boards, bureaus, or agencies,
9 as well as applicable Executive Orders or portions of those orders
10 issued by the Governor. The immunity would bar civil lawsuits,
11 and in the case of businesses and institutions of higher education,
12 any administrative proceedings concerning professional disciplinary
13 action, or suspension, revocation, refusal to issue or refusal to
14 renew any license, certification, certificate, or permit, as applicable.

15 The immunity provided by the bill would apply in addition to
16 any other available immunity, and would apply whether the
17 exposure to SARS-CoV-2, a related viral strain, or disease caused
18 by either one, occurred because a person was required to be on a
19 business' property, the campus or other property of an institution of
20 higher education, or public property, or entered or remained on the
21 property or campus by express or implied invitation or permission,
22 or the exposure occurred at some other place in the course of
23 conducting business, activities and operations, providing services,
24 or doing volunteer work on behalf of a business, institution of
25 higher education, or public entity as authorized by it. However,
26 nothing in the bill would be deemed to grant immunity for an
27 entity's or person's willful, wanton, or grossly negligent act of
28 commission or omission. Additionally, the bill would not affect a
29 worker' compensation claim or award pursuant to any applicable
30 State or federal law.

31 The bill would take effect immediately, and apply retroactively
32 to March 9, 2020, the date the Public Health Emergency and State
33 of Emergency was declared by the Governor's Executive Order 103
34 of 2020 concerning the coronavirus disease 2019 pandemic.