

Proposed Amendments to Wyo. Stat. 35-4-114.

Section 1.

(a) The legislature finds that:

(i) The conditions and circumstances recognized in Chapter 001 of the Session Laws of Wyoming, Section 1(a)(i)-(vi) continue to exist and to create extraordinary financial pressure on individuals, families, homeowners, hospitals, health care facilities, businesses, educational providers, state agencies and local governments;

(ii) Most individuals who contract COVID-19 do not become seriously ill, and people with mild symptoms, and even asymptomatic persons with COVID-19, may place other vulnerable members of the public at significant risk. Moreover, Wyoming does not currently have the testing capacity to ensure that all citizens are tested;

(ii) The people of Wyoming need to return to work and other essential activities for the good of their families, communities and the state;

(ii) Wyoming businesses, nonprofit entities, hospitals and healthcare facilities and governmental entities face a growing concern regarding litigation arising from allegations of exposure to COVID-19, and the costs associated with defending such litigation and any resulting settlement costs or liability;

(iii) These costs will only worsen the economic devastation of Wyoming residents and businesses caused by the COVID-19 public health crisis;

(iv) Wyoming citizens who have been exposed to or contracted COVID-19 through the gross negligence or willful or wanton conduct of another should have a judicial means to pursue a remedy for the resulting damage;

(v) Claims alleging COVID-19 exposure or infection that do not sufficiently allege facts supporting the liability of the defendant should be dismissed at the earliest possible time, sparing Wyoming entities the cost and disruption of defense of claims based on conjecture or bare allegations;

Section 2. W. S. 35-4-114(a) shall be amended as follows:

35-4-114. Immunity from liability.

(a) During a public health emergency as defined by W.S. 35-4-115(a)(i), any person or entity health care provider or other person, including a business entity, who in good faith follows the instructions of a state, city, town or county health officer or who acts in good faith in responding to the public health emergency is shall be immune from any civil action alleging that acts or omissions of the person or entity caused another to be exposed to or contract the communicable disease on which the public health emergency is based. liability arising from complying with those instructions or acting in good faith. This immunity shall apply to health care

~~providers who are retired, who have an inactive license or who are licensed in another state without a valid Wyoming license and while performing as a volunteer during a declared public health emergency as defined by W.S. 35-4-115(a)(i).~~ This immunity shall not apply to acts or omissions constituting gross negligence or willful or wanton misconduct, and any complaint shall specifically describe such acts or omissions, and such acts or omissions must be proven by clear and convincing evidence.

Section 2. W.S. 35-4-114(b) and (c) shall be created as follows:

(b) For the purposes of this section, “any person or entity” includes any individual; business entity; sole proprietorship; nonprofit, charitable, faith-based or church entity, organization or group; associations and service clubs; health care providers, hospitals, clinics and long term care facilities; and county and municipal political subdivisions and special districts. Any person also includes~~This immunity shall apply to health care providers who are retired, who have an inactive license or who are licensed in another state without a valid Wyoming license and while performing as a volunteer during a declared public health emergency as defined by W.S. 35-4-115(a)(i).~~

(c) This section is applicable only to claims for exposure to or infection with the communicable disease for which the public health emergency is declared, and only those claims alleging exposure or infection due to acts or omissions during the declared public health emergency.

Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution, and shall apply to all actions pending on the effective date of this act and all actions filed thereafter.