

ASSEMBLY, No. 4440

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 23, 2020

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Co-Sponsored by:

**Assemblymen Mukherji, Dancer, Assemblywomen Lopez, Stanfield,
DiMaso, Assemblymen Scharfenberger, DePhillips, Thomson and Auth**

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: 10/29/2020)

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 a public or private institution of higher education as
46 authorized by it.

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

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

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

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

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

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

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

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

43

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

1 to as COVID-19, or a related viral strain to that virus or a disease
2 caused by the related viral strain in subsequent years, which are in
3 effect at the time of an alleged exposure to Sars-CoV-2, a related
4 strain, or disease caused by either one, and which measures are
5 based on guidance, regulations, rules, and administrative orders
6 promulgated by the federal Centers for Disease Control and
7 Prevention, the federal Occupational Safety and Health
8 Administration, the State Departments of Health, Human Services,
9 and Labor and Workforce Development, or any other applicable
10 federal or State department, division, commission, board, bureau, or
11 agency, as well as applicable Executive Orders or portions of those
12 orders issued by the Governor, shall not be liable in any civil action
13 for any act of commission or omission resulting in damages arising
14 from a person's exposure to SARS-CoV-2, a related viral strain, or
15 disease caused by either one.

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

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

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

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

32

33 5. This act shall take effect immediately, and apply
34 retroactively to the date that the Public Health Emergency and State
35 of Emergency was declared by the Governor in Executive Order
36 103 of 2020 concerning the coronavirus disease 2019 pandemic.

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STATEMENT

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

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

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

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