First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 1

AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-6-2-3.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.8. "Arising from COVID-19", for purposes of IC 34-30-32, has the meaning set forth in IC 34-30-32-2.**

SECTION 2. IC 34-6-2-31.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.4. (a) "COVID-19", for purposes of IC 34-30-32, has the meaning set forth in IC 34-30-32-3.**

(b) "COVID-19", for purposes of IC 34-30-33, has the meaning set forth in IC 34-30-33-2.

SECTION 3. IC 34-6-2-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.5. "COVID-19 protective product", for purposes of IC 34-30-33, has the meaning set forth in IC 34-30-33-2.**

SECTION 4. IC 34-6-2-77.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 77.1. "Manufacturer or supplier", for purposes of IC 34-30-33, has the meaning set forth in IC 34-30-33-2.**

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SECTION 5. IC 34-6-2-103, AS AMENDED BY P.L.132-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 103. (a) "Person", for purposes of IC 34-14, has the meaning set forth in IC 34-14-1-13.

(b) "Person", for purposes of IC 34-11-2-11.5 and IC 34-24-4, means:

(1) an individual;

(2) a governmental entity;

(3) a corporation;

(4) a firm;

(5) a trust;

(6) a partnership; or

(7) an incorporated or unincorporated association that exists under or is authorized by the laws of this state, another state, or a foreign country.

(c) "Person", for purposes of section 44.8 of this chapter and IC 34-30-29-1, means an adult or a minor.

(d) "Person", for purposes of IC 34-26-4, has the meaning set forth in IC 35-31.5-2-234.

(e) "Person", for purposes of IC 34-30-5, means any of the following:

(1) An individual.

(2) A corporation.

(3) A partnership.

(4) An unincorporated association.

(5) The state (as defined in IC 34-6-2-140).

(6) A political subdivision (as defined in IC 34-6-2-110).

(7) Any other entity recognized by law.

(f) "Person", for purposes of IC 34-30-6, means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity that:

(1) has qualifications or experience in:

(A) storing, transporting, or handling a hazardous substance or compressed gas;

(B) fighting fires;

(C) emergency rescue; or

(D) first aid care; or

(2) is otherwise qualified to provide assistance appropriate to remedy or contribute to the remedy of the emergency.

(g) "Person", for purposes of IC 34-30-18, includes:

(1) an individual;

(2) an incorporated or unincorporated organization or association;

(3) the state of Indiana;

(4) a political subdivision (as defined in IC 36-1-2-13);

(5) an agency of the state or a political subdivision; or

(6) a group of such persons acting in concert.

(h) "Person", for purposes of sections 42, 43, 69, and 95 of this chapter, means an individual, an incorporated or unincorporated organization or association, or a group of such persons acting in concert.

(i) "Person", for purposes of IC 34-30-10.5, means the following:

(1) A political subdivision (as defined in IC 36-1-2-13).

(2) A volunteer fire department (as defined in IC 36-8-12-2).

(3) An employee of an entity described in subdivision (1) or (2) who acts within the scope of the employee's responsibilities.

(4) A volunteer firefighter (as defined in IC 36-8-12-2) who is acting for a volunteer fire department.

(5) A corporation, a limited liability company, a partnership, an unincorporated association, or any other entity recognized by law.

(j) "Person", for purposes of IC 34-28-7, means:

(1) an individual;

(2) a governmental entity;

(3) a corporation;

(4) a firm;

(5) a trust;

(6) a partnership; or

(7) an incorporated or unincorporated association that exists under or is authorized by the laws of this state, another state, or a foreign country.

(k) "Person", for purposes of IC 34-31-9, has the meaning set forth in IC 34-31-9-8.

(l) "Person", for purposes of IC 34-30-32, has the meaning set forth in IC 34-30-32-4.

SECTION 6. IC 34-6-2-113.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 113.3. "Premises", for purposes of IC 34-30-32, has the meaning set forth in IC 34-30-32-5.**

SECTION 7. IC 34-30-32 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 32. Immunity Related to COVID-19

Sec. 1. (a) This chapter applies only to a tort action.

(b) This chapter applies to a cause of action that accrues on or

after March 1, 2020.

Sec. 2. As used in this chapter, "arising from COVID-19" means an injury or harm caused by or resulting from:

(1) the actual, alleged, or possible exposure to or contraction of COVID-19; or

(2) services, treatment, or other actions performed for COVID-19.

Sec. 3. As used in this chapter, "COVID-19" means:

(1) severe acute respiratory syndrome coronavirus 2 or a mutated form of severe acute respiratory syndrome coronavirus 2; or

(2) the disease caused by severe acute respiratory syndrome coronavirus 2 or a mutated form of severe acute respiratory syndrome coronavirus 2.

Sec. 4. As used in this chapter, "person" means:

(1) an individual;

(2) an association;

(3) an institution;

(4) a corporation;

(5) a company;

(6) a trust;

(7) a limited liability company;

(8) a partnership;

(9) a political subdivision;

(10) a government office, department, division, bureau, or other body of government;

(11) a nonprofit corporation; or

(12) any other organization or entity.

Sec. 5. As used in this chapter, "premises" means real property and any appurtenant building or structure.

Sec. 6. Subject to the other provisions of this chapter, a person is immune from civil tort liability for damages arising from COVID-19:

(1) on the premises owned or operated by the person;

(2) on any premises on which the person or an employee or agent of the person provided property or services to another person; or

(3) during an activity managed, organized, or sponsored by the person.

Sec. 7. This chapter does not grant immunity from civil tort liability to a person whose actions or omissions constitute gross negligence or willful or wanton misconduct (including fraud and

intentionally tortious acts) as proven by clear and convincing evidence.

Sec. 8. (a) This chapter supplements and is in addition to:

(1) IC 34-13-3 (Indiana Tort Claims Act); and

(2) IC 34-18 (Indiana Medical Malpractice Act).

(b) This chapter does not apply to:

(1) IC 22-3-2 (Worker's Compensation);

(2) IC 22-3-7 (Worker's Occupational Diseases Compensation);

(3) IC 22-8 (Occupational Health and Safety); or

(4) IC 22-4 (Unemployment Compensation).

Sec. 9. The civil tort immunity provided in this chapter is in addition to any other immunity protection that may apply under state or federal law.

Sec. 10. A person may not bring a class action lawsuit based on tort damages arising from COVID-19.

Sec. 11. This chapter expires December 31, 2024.

SECTION 8. IC 34-30-33 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 33. COVID-19 Related Products Liability

Sec. 1. This chapter only applies to a tort action.

Sec. 2. The following definitions apply throughout this chapter:

(1) "COVID-19" means:

(A) severe acute respiratory syndrome coronavirus 2 or a mutated form of severe acute respiratory syndrome coronavirus 2; or

(B) the disease caused by severe acute respiratory syndrome coronavirus 2 or a mutated form of severe acute respiratory syndrome coronavirus 2.

(2) "COVID-19 protective product" means one (1) or more of the following:

(A) Personal protective equipment.

(B) Medical devices, equipment, and supplies used to treat COVID-19, including medical devices, equipment, or supplies that are used or modified for an unapproved use to treat COVID-19 or to prevent the spread of COVID-19.

(C) Medical devices, equipment, and supplies used outside of their normal use to treat COVID-19 or to prevent the spread of COVID-19.

(D) Medications used to treat COVID-19, including medications prescribed or dispensed for off label use to

attempt to treat COVID-19.

(E) Tests, as approved by the federal Food and Drug Administration, to diagnose or determine immunity or exposure to COVID-19.

(F) A product designed to clean or disinfect to prevent the spread of COVID-19.

(G) Any component of an item described in this subdivision.

(3) "Manufacturer or supplier" means a person who designs, manufactures, labels, sells, distributes, or donates a COVID-19 protective product.

Sec. 3. This chapter applies to a cause of action that accrues on or after March 1, 2020.

Sec. 4. Except as provided in section 5 or 6(b) of this chapter, a manufacturer or supplier is immune from civil tort liability for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product.

Sec. 5. The immunity from civil tort liability provided in section 4 of this chapter does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts) as proven by clear and convincing evidence.

Sec. 6. (a) This chapter supplements and is in addition to:

(1) IC 34-13-3 (Indiana Tort Claims Act); and

(2) IC 34-18 (Indiana Medical Malpractice Act).

(b) This chapter does not apply to a claim brought under:

(1) IC 22-3-2 (Worker's Compensation);

(2) IC 22-3-7 (Worker's Occupational Diseases Compensation);

(3) IC 22-8 (Occupational Health and Safety); or

(4) IC 22-4 (Unemployment Compensation).

Sec. 7. The civil tort immunity provided in this chapter is in addition to any other immunity protection that might apply under state or federal law.

Sec. 8. A person may not bring a class action lawsuit based on tort damages for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product.

Sec. 9. This chapter expires December 31, 2024.

SECTION 9. **An emergency is declared for this act.**

President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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