



358018

LEGISLATIVE ACTION

Senate

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House

The Committee on Commerce and Tourism (Pizzo) recommended the following:

Senate Amendment

Delete lines 141 - 157

and insert:

2. The defendant is immune from civil liability. The defendant is immune from civil liability if the defendant complied with all applicable executive orders issued by the Governor in association with the declared state of emergency for COVID-19 and any guidelines from the Centers for Disease Control and Prevention applicable at the time the cause of action



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11 accrued. The defendant may plead immunity at any stage of the
12 proceeding.

13 a. At a summary judgment hearing on the issue of immunity,
14 evidence is limited to evidence tending to demonstrate whether
15 the defendant complied with all applicable executive orders
16 issued by the Governor in association with the declared state of
17 emergency for COVID-19 and any guidelines from the Centers for
18 Disease Control and Prevention applicable at the time the cause
19 of action accrued.

20 b. If the court determines at a summary judgment hearing
21 that the defendant complied with the executive orders and
22 guidelines, the defendant is immune from civil liability for
23 ordinary negligence.

24 c. If the court determines at a summary judgment hearing
25 that the defendant did not comply with the executive orders and
26 guidelines, the plaintiff may proceed with the action. However,
27 absent at least gross negligence proven by clear and convincing
28 evidence, the defendant is not civilly liable for any act or
29 omission relating to a COVID-19-related claim.

30 (d) The burden of proof is upon the plaintiff to
31 demonstrate that the defendant did not comply with the executive
32 orders and guidelines under subparagraph (c)2.