

REFERENCE TITLE: COVID-19; civil liability; evidence; penalties

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2912

Introduced by
Representative Kavanagh (with permission of Committee on Rules)

AN ACT

LIMITING ENFORCEMENT ACTIONS AND CIVIL LIABILITY DURING A PUBLIC HEALTH
EMERGENCY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Executive orders relating to COVID-19 state of
3 emergency; prohibited enforcement of criminal
4 actions; civil penalty; retroactivity

5 A. Notwithstanding section 26-317, Arizona Revised Statutes, a
6 person may not be charged with, adjudicated for or convicted of an act
7 that is prohibited or required by an executive order, including any
8 extensions of that executive order, that is issued during a state of
9 emergency declared by the governor and that is related to the COVID-19
10 outbreak.

11 B. Notwithstanding any other law, beginning March 11, 2020, a
12 person who knowingly fails or refuses to obey any lawful order, rule or
13 regulation that is required by an executive order that is related to a
14 state of emergency declared by the governor and that relates to the
15 COVID-19 outbreak is subject to a civil penalty of not more than \$100 if
16 the person is provided notice of the violation and does not cure the
17 violation within twenty-four hours after receiving the notice.

18 C. Notwithstanding any other law, beginning March 11, 2020, this
19 state, including a board or commission of this state, a county, a city, a
20 town and any political subdivision of this state that issues a license or
21 permit to a person to conduct a business, profession or service in the
22 issuing jurisdiction, including a church, religious institution or
23 nonprofit organization, may not suspend or revoke the license or permit
24 that is issued to the person based on an act committed by the person or
25 involving the business, including a church, religious institution or
26 nonprofit organization, that is directly prohibited or required by an
27 executive order, including any extension of that order, that is related to
28 a state of emergency declared by the governor and that is related to the
29 COVID-19 outbreak.

30 D. This section applies retroactively to from and after March 10,
31 2020.

32 Sec. 2. Civil liability during COVID-19 outbreak; burden of
33 proof; applicability; definition

34 A. A school or person, including a person who owns or operates a
35 business, corporation, limited liability company, church, religious
36 institution or nonprofit organization in this state during a state of
37 emergency order related to the COVID-19 outbreak, is not liable to a
38 person who contracts COVID-19 during the state of emergency, including
39 after entering and remaining on the premises of the business, corporation,
40 limited liability company, church, religious institution, nonprofit
41 organization or school, if the action is based on strict liability,
42 premises liability or negligence unless the school, person or owner or
43 operator of the business, corporation, limited liability company, church,
44 religious institution or nonprofit organization acted with gross
45 negligence.

1 B. The burden of proof in a civil action that is based on the
2 plaintiff contracting COVID-19 and that is filed pursuant to subsection A
3 of this section is clear and convincing evidence.

4 C. This section applies to all causes of action that accrue before,
5 on or after the effective date of this section.

6 D. For the purposes of this section, "school" includes a public or
7 charter school as defined in section 15-101, Arizona Revised Statutes, a
8 private school that provides instruction to students in any combination of
9 kindergarten programs and grades one through twelve, a university under
10 the jurisdiction of the Arizona board of regents, a community college as
11 defined in section 15-1401, Arizona Revised Statutes, an accredited
12 private postsecondary institution and a vocational program as defined in
13 section 15-1831, Arizona Revised Statutes, or a vocational education
14 program offered pursuant to section 15-782.02, Arizona Revised Statutes.

15 Sec. 3. Severability

16 If a provision of this act is or its application to any person or
17 circumstance is held invalid, the invalidity does not affect other
18 provisions or applications of the act that can be given effect without the
19 invalid provision or application, and to this end the provisions of this
20 act are severable.

21 Sec. 4. Emergency

22 This act is an emergency measure that is necessary to preserve the
23 public peace, health or safety and is operative immediately as provided by
24 law.