

1 AN ACT relating to the limitation of liability during the COVID-19 pandemic and
2 declaring an emergency.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) For the purposes of this section, "person" means any entity recognized in this
7 state and shall include but not be limited to an individual, corporation, limited
8 liability company, partnership, trust, association, church or religious
9 organization, city, county, public or private school district, college, university or
10 other institution of higher education, or other unit of local government.

11 (2) Notwithstanding any other statute to the contrary, any person who acts in good
12 faith in the course of or through the performance or provision of the person's
13 business operations or on the premises owned or operated by the person shall
14 have a defense to civil liability for ordinary negligence for any personal injury or
15 death resulting from or related to an actual or alleged exposure to COVID-19, if
16 the person acts as an ordinary, reasonable, and prudent person would have acted
17 under the same or similar circumstances.

18 (3) Notwithstanding any other statute to the contrary, there shall be a rebuttable
19 presumption that the safety measures adopted by a retail business are reasonable
20 if those measures conform to the Kentucky Department of Public Health
21 guidelines in existence at the time of the alleged injury. For the purposes of this
22 section, "retail business" means any commercial enterprise that sells, in its
23 normal course of business, goods or services, excluding retail businesses that
24 render medical, dental, or other healthcare related walk-in services.

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
26 READ AS FOLLOWS:

27 Unless expressly prohibited by law or an executive order, a public school official's good

1 *faith decision to open or close a school in the legally uncertain environment created by*
2 *COVID-19 shall be deemed a discretionary act for the purposes of determining*
3 *qualified immunity for that public school official in his or her official or individual*
4 *capacity.*

5 ➔Section 3. Whereas the impact of the state of emergency in response to COVID-
6 19 on Kentucky's citizens and businesses is of the utmost importance, an emergency is
7 declared to exist, this Act takes effect upon its passage and approval by the Governor or
8 upon its otherwise becoming a law, and its provisions shall apply retroactively.