

### HB 3 -- CIVIL ACTIONS RESULTING FROM AN EMERGENCY

SPONSOR: Schroer

This bill specifies that any health care provider who provides care necessitated by a state of emergency will not be liable for any civil damages or administrative sanctions for any failure in the nondelivery of health care necessitated by the emergency to exercise the skill and learning of an ordinarily careful health care provider; however, such health care provider shall be liable for damages when a person has sustained serious injury as a result of malicious conduct or conduct that intentionally caused damage to the plaintiff for acts or omissions in rendering care. The bill defines "health care provider" and "serious injury". The provisions of this section apply to all civil actions filed on or after the effective date of the section and shall apply to all claims based on acts or omissions occurring during the state of emergency.

The bill also specifies that a person who designs, manufactures, labels, sells, distributes, or donates a "covered product," defined in the bill, in direct response to an emergency will not be liable in a civil action if the person does not make the covered product during the ordinary course of the person's business; makes the product in the ordinary course of the person's business but the emergency requires the product to be made in a modified manufacturing process that is outside the ordinary course of business; or makes the product in the ordinary course of the person's business but the use of the product is different than its recommended purpose and is used in response to the emergency. Additionally, any person who dispenses such a covered product shall not be liable in any civil action for injuries, death, or damages claimed to have arisen from the dispensation of the product. The bill provides what a plaintiff must prove in order to file and sustain a claim over the misuse of a covered product. The provisions of this section apply to all civil actions filed on or after the effective date of the section and shall apply to all claims based on acts or omissions occurring during the state of emergency.

The bill also specifies that a premises owner will not be liable for an exposure claim that was related to an emergency and sustained on the premises unless the plaintiff can prove by clear and convincing evidence that the premises owner intentionally harmed the plaintiff without just cause or that the owner acted with a deliberate and flagrant disregard for the safety of others. The bill provides circumstances under which a premises owner will not be liable for civil damages related to an exposure claim. The provisions of this section apply to all civil actions filed on or after the effective date of the section and shall apply to all

claims based on acts or omissions occurring during the state of emergency.

The bill contains an emergency clause.