AN ACT concerning adult care homes; relating to civil liability for COVID-19 claims; providing immunity therefrom; amending K.S.A. 2020 Supp. 60-5506 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2020 Supp. 60-5506 is hereby amended to read as follows: 60-5506. (a) Notwithstanding any other provision of law, an adult care facility shall have an affirmative defense to be immune from liability in a civil action for damages, administrative fines or penalties for a COVID-19 claim if such facility:

(1) (A) Was caused, by the facility's compliance with a statute or rule and regulation, to reaccept a resident who had been removed from the facility for treatment of COVID-19; or
(B) treats a resident who has tested positive for COVID-19 in such facility in compliance with a statute or rule and regulation; and
(2) is acting pursuant to and in substantial compliance with public health directives.

(b) As used in this section, "public health directives" means any of the following that is required by law to be followed related to public health and COVID-19:

(1) State statutes, rules and regulations or executive orders issued by the governor pursuant to K.S.A. 48-925, and amendments thereto; or
(2) federal statutes or regulations from federal agencies, including the United States centers for disease control and prevention and the occupational safety and health administration of the United States department of labor.

(b) The provisions of this section shall apply to any claim for damages or liability that arise out of or relate to acts, omissions or healthcare decisions related to the COVID-19 public health emergency.

(c) The provisions of this section shall not apply to civil liability when it is established that the act, omission or healthcare decision constituted gross negligence or willful, wanton or reckless conduct.

Sec. 2. K.S.A. 2020 Supp. 60-5506 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.