

HB 1323

2004

A bill to be entitled

An act relating to a limitation of liability for donated firefighting equipment; creating s. 768.1315, F.S.; providing a popular name; providing definitions; providing that a state agency or political subdivision is not liable for civil damages resulting from personal injuries, property damage, or death proximately caused by defective fire control or fire rescue equipment donated to a volunteer fire department; providing certain exceptions to the limitation on liability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 768.1315, Florida Statutes, is created to read:

768.1315 Good Samaritan Volunteer Firefighters' Assistance Act; immunity from civil liability.--

(1) SHORT TITLE.--This section shall be known by the popular name "Good Samaritan Volunteer Firefighters' Assistance Act."

(2) DEFINITIONS.--As used in this section, the term:

(a) "Authorized technician" means a technician who is certified by the manufacturer of fire control or fire rescue equipment as qualified to inspect that equipment. The technician need not be employed by the state agency or political subdivision administering the distribution of the fire control or fire rescue equipment.

(b) "Qualified fire control or fire rescue equipment" means equipment used for fire control or fire rescue which has

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30 been recertified by an authorized technician as meeting the
 31 manufacturer's specifications and which is distributed by or
 32 through a state agency or political subdivision to a volunteer
 33 fire department.

34 (3) LIMITATION OF LIABILITY.--A state agency or political
 35 subdivision, including a person acting as an agent thereof,
 36 which acts reasonably in donating qualified fire control or fire
 37 rescue equipment to a volunteer fire department is not liable
 38 for civil damages under any state law for personal injury,
 39 property damage, or death proximately caused, after the
 40 donation, by a defect in the equipment.

41 (4) EXCEPTIONS TO LIABILITY PROTECTION.--Subsection (3)
 42 does not apply to a state agency or political subdivision if:

43 (a) The defect that proximately caused the injury, damage,
 44 or death resulted from an act or omission of the state agency or
 45 political subdivision which constitutes malice, gross
 46 negligence, recklessness, or intentional misconduct;

47 (b) The state agency or political subdivision is the
 48 manufacturer of the qualified fire control or fire rescue
 49 equipment; or

50 (c) The state agency or political subdivision modified or
 51 altered the equipment after it had been recertified by an
 52 authorized technician as meeting the manufacturer's
 53 specifications.

54 Section 2. This act shall take effect July 1, 2004, and
 55 applies to any cause of action that accrues on or after that
 56 date.