

By the Committee on Comprehensive Planning; and Senator Lynn

316-2088-04

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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 short title;
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 may be cited as the
"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

1 been recertified by an authorized technician as meeting the
2 manufacturer's specifications and which is distributed by or
3 through a state agency or political subdivision to a volunteer
4 fire department.

5 (3) LIMITATION OF LIABILITY.--A state agency or
6 political subdivision, including a person acting as an
7 employee or agent thereof, which acts reasonably in donating
8 qualified fire control or fire rescue equipment to a volunteer
9 fire department is not liable for civil damages under any
10 state law for personal injury, property damage, or death
11 proximately caused, after the donation, by a defect in the
12 equipment.

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

16 (a) The defect that proximately caused the injury,
17 damage, or death resulted from an act or omission of an
18 employee or agent of the state agency or political subdivision
19 which constitutes malice, gross negligence, recklessness, or
20 intentional misconduct;

21 (b) The state agency or political subdivision is the
22 manufacturer of the qualified fire control or fire rescue
23 equipment; or

24 (c) The state agency or political subdivision modified
25 or altered the equipment after it had been recertified by an
26 authorized technician as meeting the manufacturer's
27 specifications.

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29 This section does not waive the limits of sovereign immunity
30 set forth in s. 768.28.
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1 Section 2. This act shall take effect July 1, 2004,
2 and applies to any cause of action that accrues on or after
3 that date.

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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 1764

8 The CS makes technical changes and clarifies that this new
9 section of law does not waive the limits of sovereign immunity
10 set forth in s. 768.28.

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