



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 subdivision to a volunteer fire  
4 department.

5 (c) "State agency or subdivision" shall have the  
6 meaning provided in s. 768.28(2).

7 (3) LIMITATION OF LIABILITY.--A state agency or  
8 subdivision, including an officer, employee, or agent thereof,  
9 who is acting within the scope of his or her employment or  
10 function, which donates qualified fire control or fire rescue  
11 equipment to a volunteer fire department is not liable for  
12 civil damages under any state law for personal injury,  
13 property damage, or death proximately caused after the  
14 donation by a defect in the equipment.

15 (4) EXCEPTIONS TO LIABILITY PROTECTION.--Subsection  
16 (3) does not apply to a state agency or subdivision, or an  
17 officer, employee, or agent thereof, if:

18 (a) The defect that proximately caused the personal  
19 injury, property damage, or death resulted from:

20 1. An act or omission of an officer, employee, or  
21 agent of the state agency or subdivision which constitutes  
22 malice, gross negligence, recklessness, or intentional  
23 misconduct; or

24 2. A modification or alteration of the qualified fire  
25 control or fire rescue equipment by the state agency or  
26 subdivision, or by an officer, employee, or agent thereof,  
27 after the equipment was recertified by an authorized  
28 technician as meeting the manufacturer's specifications.

29 (b) The state agency or subdivision is the  
30 manufacturer of the qualified fire control or fire rescue  
31 equipment.

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Nothing in this section shall be construed as a waiver of  
sovereign immunity.

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

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS for Senate Bill 1764

Defines the phrase "state agency and subdivision." Limits  
immunity given to officers, employees, and agents to when they  
are acting within the scope of their employment or function.  
Clarifies when immunity from liability does not apply.  
Clarifies that nothing in the section shall be construed as a  
waiver of sovereign immunity.