

By the Committees on Judiciary; Governmental Oversight and Productivity; Comprehensive Planning; and Senators Lynn and Bullard

308-2497-04

1 A bill to be entitled
2 An act relating to a limitation of liability
3 for donated firefighting equipment; creating s.
4 768.1315, F.S.; providing a short title;
5 providing definitions; providing that a state
6 agency or political subdivision, or an officer,
7 employee, or agent thereof, is not liable for
8 civil damages resulting from personal injuries,
9 property damage, or death proximately caused by
10 defective fire control or fire rescue equipment
11 donated to a volunteer fire department;
12 providing certain exceptions to the limitation
13 on liability; providing an effective date.

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

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

19 768.1315 Good Samaritan Volunteer Firefighters'
20 Assistance Act; immunity from civil liability.--

21 (1) SHORT TITLE.--This section may be cited as the
22 "Good Samaritan Volunteer Firefighters' Assistance Act."

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

24 (a) "Authorized technician" means a technician who is
25 certified by the manufacturer of fire control or fire rescue
26 equipment as qualified to inspect that equipment. The
27 technician may not be employed by the state agency or
28 subdivision administering the distribution of the fire control
29 or fire rescue equipment.

30 (b) "Qualified fire control or fire rescue equipment"
31 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 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 CS Senate Bill 1764

- Provides that the technicians authorized to recertify
that fire control or fire rescue equipment meets the
manufacturers specifications must not be employed by the
state agency or subdivision donating the equipment to a
volunteer fire department.