

ENGROSSED HOUSE
BILL NO. 1197

By: Boyd (Betty), Ferguson,
Deutschendorf, Hefner,
Hilliard, Mass, Peltier,
Pope (Clay),
Satterfield, Seikel and
Stites of the House

and

Helton of the Senate

An Act relating to torts; providing immunity for damages resulting from conduct by certain persons; providing exceptions to immunity; providing for liability based on respondeat superior under certain conditions; providing immunity for damages based upon donation or loan of equipment to volunteer; providing exception; defining term; limiting scope of immunity; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5.8 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

1. The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for a nonprofit

organization, a nonprofit corporation, hospital or governmental entity; and

2. The damage or injury was not caused by willful and wanton misconduct by such volunteer.

B. In any suit against a nonprofit organization, nonprofit corporation or a hospital for civil damages based upon the negligent act or omission of a volunteer, proof of such act or omission shall be sufficient to establish the responsibility of the organization therefor under the doctrine of respondeat superior, notwithstanding the immunity granted to the volunteer with respect to any act or omission included under subsection A of this section.

C. Any person who, in good faith and without compensation, donates or loans emergency service equipment to a volunteer shall not be liable for damages resulting from the use of such equipment by the volunteer, except if the donor of such equipment knew or should have known that the equipment was dangerous or faulty in a way which could lead to bodily injury, death or damage to property or any combination of injury, death or damage.

D. For the purposes of this section, the term "volunteer" means a person who enters into a service or undertaking of such person's free will without compensation in money or other thing of value in order to provide a service, care, assistance, advice, or other benefit, and it is known prior to the service or undertaking being performed or presented.

E. The provisions of this section shall not affect the potential liability that any person may have which arises from the operation of a motor vehicle in rendering the service, care, assistance, advice, or other benefit as a volunteer.

F. The immunity from civil liability provided for by this section shall extend only to the actions taken by persons in rendering the service, care, assistance, advice, or other benefit as volunteers, and does not confer any immunity to any person for

actions taken by the volunteer prior to or after the rendering of the service, care, assistance, advice, or other benefit as a volunteer.

SECTION 2. This act shall become effective November 1, 1995.

Passed the House of Representatives the 14th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate