

Committee Substitute for Committee Substitute for  
Committee Substitute for Senate Bill No. 1764

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, or an officer, employee, or agent thereof, 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 may not be employed by the state agency or 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 been recertified by an authorized technician as meeting the manufacturer’s specifications and which is distributed by or through a state agency or subdivision to a volunteer fire department.

(c) “State agency or subdivision” shall have the meaning provided in s. 768.28(2).

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

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

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

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

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

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

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.

Approved by the Governor June 24, 2004.

Filed in Office Secretary of State June 24, 2004.