

SENATE BILL NO. 404
INTRODUCED BY G. LIND

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING LIMITS ON LIABILITY FOR EMERGENCY CARE; LIMITING LIABILITY FOR FIREWARDENS; AND AMENDING SECTION 27-1-714, MCA FIREFIGHTERS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1.~~ Section 27-1-714, MCA, is amended to read:

~~"27-1-714. Limits on liability for emergency care rendered at scene of accident or emergency. (1)~~

~~Any person licensed as a physician and surgeon under the laws of the state of Montana, any volunteer firefighter or officer of any nonprofit volunteer fire company a governmental fire agency, or any other person who in good faith renders emergency care or assistance with or without compensation except as provided in subsection (2) at the scene of an emergency or accident is not liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such the person in rendering such the emergency care or assistance.~~

~~(2) Subsection (1) includes a person properly trained under the laws of this state who operates an ambulance to and from the scene of an emergency or renders emergency medical treatment on a volunteer basis so long as the total reimbursement received for such volunteer services does not exceed 25% of his gross annual income or \$3,000 a calendar year, whichever is greater.~~

~~(3) If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, such the refusal does not constitute gross negligence or a willful or wanton act or omission.~~

~~(4) A person acting within the course and scope of duties described in subsections (1) and (2) is not criminally liable for acts and omissions other than those committed purposely and knowingly.~~

~~(5) As used in this section, "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33.~~

~~NEW SECTION. Section 2. Liability of firewardens. A firewarden is not civilly or criminally liable for acts and omissions that are committed within the course and scope of employment, other than those committed purposely and knowingly.~~

~~NEW SECTION. Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 76, chapter 13, part 1, and the provisions of Title 76, chapter 13, part 1, apply to [section 2].~~

NEW SECTION. SECTION 1. LIABILITY OF FIREFIGHTERS. (1) A FIREWARDEN, FIREFIGHTER, OR OFFICER OR EMPLOYEE OF A STATE OR GOVERNMENTAL FIRE AGENCY IS NOT CRIMINALLY LIABLE FOR ANY CIVIL DAMAGES FOR ACTS OR OMISSIONS WHILE FIGHTING FIRES OTHER THAN DAMAGES OCCASIONED BY GROSS NEGLIGENCE OR BY WILLFUL OR WANTON ACTS OR OMISSIONS ACTS OR OMISSIONS COMMITTED WITH DEMONSTRABLE CRIMINAL INTENT.

(2) FOR THE PURPOSES OF THIS SECTION, "GOVERNMENTAL FIRE AGENCY" MEANS A FIRE PROTECTION ENTITY ORGANIZED UNDER TITLE 7, CHAPTER 33.

NEW SECTION. SECTION 2. LEGAL REPRESENTATION FOR FIREFIGHTERS. THE DEPARTMENT SHALL PROVIDE LEGAL REPRESENTATION TO ITS EMPLOYEES WHO FIGHT FIRES FOR ANY CRIMINAL PROSECUTION ARISING FROM AN ACT OR OMISSION ON A FIRE.

NEW SECTION. SECTION 3. CODIFICATION INSTRUCTION. (1) [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 27, CHAPTER 1, PART 7, TITLE 45, CHAPTER 2, PART 2, AND THE PROVISIONS OF TITLE 27, CHAPTER 1, PART 7, TITLE 45, CHAPTER 2, PART 2, APPLY TO [SECTION 1].

(2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 76, CHAPTER 13, PART 1, AND THE PROVISIONS OF TITLE 76, CHAPTER 13, PART 1, APPLY TO [SECTION 2].

~~NEW SECTION. Section 4. Two-thirds vote required. Because [sections 1 and 2] limit governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage:~~

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