



AN ACT CLARIFYING LIABILITY FOR FIREFIGHTERS; PROVIDING FOR LEGAL REPRESENTATION OF FIREFIGHTERS; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND LOCAL GOVERNMENTAL FIRE AGENCIES TO PAY ATTORNEY FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

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 acts or omissions while fighting fires other than 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.

Section 2. Legal representation for state firefighters. (1) The department shall pay reasonable attorney fees and costs for outside legal counsel to defend a firefighter employed by the department against a criminal prosecution for a good faith act or omission by the firefighter arising from the firefighter's performance of duties during a wildfire. The department may determine whether the firefighter's act or omission was in good faith and arising from the performance of the firefighter's duties during a wildfire. The requirement to pay attorney fees and costs does not apply to any postconviction legal proceedings.

(2) The department shall adopt rules to implement this section.

Section 3. Legal representation for firewarden, firefighter, or employee -- local governmental fire agency. A local governmental fire agency shall pay reasonable attorney fees and costs for outside legal counsel to defend a firewarden, firefighter, or paid or volunteer employee of a local governmental fire agency against a criminal prosecution arising from an act or omission in the performance of duties on a fire or in fire training that is made in good faith and within the course and scope of employment of the firewarden, firefighter, or paid or volunteer employee. The local governmental fire agency may determine whether the act or omission of the firewarden, firefighter, or paid or volunteer employee was in good faith and arising from the performance of the

employee's duties in a fire or in fire training. The requirement to pay attorney fees and costs does not apply to any postconviction legal proceedings.

Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 45, chapter 2, part 2, and the provisions of 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].

(3) [Section 3] is intended to be codified as an integral part of Title 7, chapter 33, and the provisions of Title 7, chapter 33, apply to [section 3].

Section 5. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 0404, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2019.

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 404
INTRODUCED BY G. LIND

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