

1 HOUSE BILL NO. 63  
2 INTRODUCED BY S. KERNS  
3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE CIVIL AND CRIMINAL LIABILITY LAWS  
6 RELATED TO MEMBERS OF THE ARMED FORCES AND THE MONTANA NATIONAL GUARD; LIMITING  
7 CIVIL LIABILITY FOR EMERGENCY CARE RENDERED AT THE SCENE BY MEMBERS OF THE NATIONAL  
8 GUARD; PROVIDING AN AFFIRMATIVE DEFENSE IN CRIMINAL ACTIONS OF JUSTIFIABLE USE OF  
9 FORCE IN DEFENSE OF MILITARY EQUIPMENT AND INFORMATION; AND AMENDING SECTION 27-1-  
10 714, MCA."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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14 **Section 1.** Section 27-1-714, MCA, is amended to read:

15 **"27-1-714. Limits on liability for emergency care rendered at scene of accident or emergency.**

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

22 (2) Subsection (1) includes:

23 (a) a person properly trained under the laws of this state who operates an ambulance to and from  
24 the scene of an emergency or renders emergency medical treatment on a volunteer basis so long as the total  
25 reimbursement received for the volunteer services does not exceed 25% of the person's gross annual income  
26 or \$3,000 a calendar year, whichever is greater. Reimbursement for search and rescue expenses is not  
27 compensation for purposes of this section.

**Amendment - 1st Reading/2nd House-blue - Requested by: Kenneth Bogner - (S) State Administration**

68th Legislature

Drafter: Madelyn Krezowski, (406) 444-6857

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1           **(b)** a member of the army national guard or air national guard acting in an official capacity.

2           **(3)**     If a nonprofit subscription fire company refuses to fight a fire on nonsubscriber property, the  
3 refusal does not constitute gross negligence or a willful or wanton act or omission."  
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5           **NEW SECTION. Section 2. Use of force in defense of military equipment and information.** **(1)** A  
6 member of the armed forces or a member of the national guard who is on official duty defending military  
7 equipment is privileged to use reasonable force as necessary, including deadly force, in accordance with  
8 published military regulations and doctrine regarding the use of force.

9           **(2)**     The servicing staff judge advocate shall provide a briefing on the rules for the use of force to  
10 members of the armed forces and members of the national guard prior to defending military equipment. The  
11 failure of a member of the armed forces or a member of the national guard to receive a briefing on the rules for  
12 the use of force, through no fault of the individual member, does not preclude the individual member from  
13 asserting this privilege.  
14

15           **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
16 integral part of Title 45, chapter 3, part 1, and the provisions of Title 45, chapter 3, part 1, apply to [section 2].  
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