

Senate File 68 - Introduced

SENATE FILE 68

BY EDLER

A BILL FOR

1 An Act relating to immunity from civil liability for disaster
2 response by volunteers who enter upon or in private property
3 without express consent of the owner, lessee, or person in
4 lawful possession.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 613.17A Disasters — immunity from
2 civil liability.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. "Disaster" means the same as defined in section 29C.2.

6 b. "Emergency" means exigent circumstances demanding
7 immediate action to protect life or property.

8 c. "Peace officer" means all of the following:

9 (1) Sheriffs and their regular deputies who are subject to
10 mandated law enforcement training.

11 (2) Marshals and police officers of cities.

12 (3) Peace officer members of the department of public safety
13 as defined in chapter 80.

14 (4) Special security officers employed by board of regents
15 institutions as set forth in section 262.13.

16 (5) Such employees of the department of transportation as
17 are designated "peace officers" by resolution of the department
18 under section 321.477.

19 d. "Property" means any land, dwelling, building, or other
20 temporary or permanent structure that is privately owned.

21 e. "Response" means any action taken immediately before,
22 during, or directly after a disaster occurs, which is intended
23 to save lives, minimize injuries, mitigate property damage, or
24 mitigate environmental damage.

25 f. "Volunteer" means any of the following:

26 (1) An individual who is not part of a recognized
27 voluntary organization, may have no formal training in
28 emergency response, and comes to a disaster scene to provide
29 uncompensated assistance.

30 (2) An individual who is affiliated with a recognized
31 voluntary or nonprofit organization and who is trained for
32 specific disaster response activities. The individual's
33 relationship with the organization precedes the immediate
34 disaster and the individual is invited by that organization
35 to become involved, without compensation, in the disaster

1 response.

2 2. A volunteer may enter upon or in property in response to
3 a disaster if all of the following apply:

4 a. The governor has issued a proclamation of a disaster
5 emergency pursuant to section 29C.6.

6 b. An emergency exists on the property or is directly
7 affecting the property.

8 c. A reasonable effort has been made to contact or locate
9 the owner, lessee, or person in lawful possession of the
10 property to obtain express consent to enter the property. If
11 circumstances allow, the effort to contact or locate the owner,
12 lessee, or person in lawful possession of the property shall be
13 made prior to entry upon or in the property. If circumstances
14 require immediate mitigation to prevent harm, or further harm,
15 to life or property, effort to contact or locate the owner,
16 lessee, or person in lawful possession of the property shall
17 be made as soon as is practicable after entry upon or in the
18 property.

19 d. Entry is made in good faith.

20 3. A volunteer who enters upon or in property pursuant
21 to subsection 2 shall be immune from civil liability for
22 acts or omissions in good faith by the volunteer while upon
23 or in the property, unless such acts or omissions constitute
24 recklessness, willful misconduct, or gross negligence.

25 4. A volunteer who enters upon or in property pursuant
26 to subsection 2 shall not have committed criminal mischief
27 pursuant to section 716.1 or trespass pursuant to section
28 716.7.

29 5. The owner, lessee, or person in lawful possession of
30 property shall be immune from civil liability for good-faith
31 acts and omissions causing personal injury to, or the death
32 of, a volunteer who has entered such property pursuant to
33 subsection 2, unless such acts or omissions by the owner,
34 lessee, or person in lawful possession of the property
35 constitutes recklessness, willful misconduct, or gross

1 negligence.

2 6. This section does not apply to a volunteer who knowingly
3 enters upon or in property, or remains upon or in property,
4 after being issued an express command to not enter upon or in
5 the property, or an express command to remove or vacate the
6 property, by any of the following:

7 a. An agent of a federal law enforcement agency.

8 b. An agent of a federal, state, or local emergency
9 management agency.

10 c. A peace officer.

11 d. A member of the state military called into state active
12 duty pursuant to section 29A.8, subsection 1, paragraph "c".

13 e. The owner, lessee, or person in lawful possession of the
14 property.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to immunity from civil liability for
19 disaster response by volunteers who enter upon or in private
20 property without express consent of the owner, lessee, or
21 person in lawful possession.

22 "Volunteer" is defined in the bill as an individual who is
23 not part of a recognized voluntary organization, may have no
24 formal training in emergency response, and comes to provide
25 assistance in a disaster response, and an individual who
26 has a preexisting affiliation with a recognized voluntary
27 or nonprofit organization, is trained for specific disaster
28 response activities, and is invited by that organization to
29 become involved in the disaster response. All such volunteers
30 are uncompensated.

31 A volunteer may enter property in response to a disaster if
32 the governor has issued a proclamation of a disaster emergency,
33 an emergency exists on the property or is directly affecting
34 the property, a reasonable effort has been made to contact or
35 locate the owner, lessee, or person in lawful possession of

1 the property to obtain express consent to enter the property,
2 and entry is made in good faith. "Property" is defined in the
3 bill as any land, dwelling, building, or other temporary or
4 permanent structure that is privately owned. "Disaster" and
5 "emergency" are also defined in the bill.

6 A volunteer who enters property under such circumstances is
7 immune from civil liability for acts or omissions in good faith
8 by the volunteer while upon or in the property, unless such
9 acts or omissions constitute recklessness, willful misconduct,
10 or gross negligence. Such volunteer has also not committed
11 criminal mischief pursuant to Code section 716.1 or trespass
12 pursuant to Code section 716.7. The owner, lessee, or person
13 in lawful possession of the property is immune from civil
14 liability for good-faith acts or omissions causing for personal
15 injury to, or the death of, a volunteer unless such acts or
16 omissions constitute recklessness, willful misconduct, or gross
17 negligence.

18 The bill does not apply to a volunteer who knowingly
19 enters the property, or remains on the property, after being
20 told not to enter the property, or told to remove or vacate
21 the property, by an agent of a federal, state, or local law
22 enforcement agency or emergency management, a peace officer, a
23 member of the state military, or the owner, lessee, or person
24 in lawful possession of the property.