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

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

a. "Disaster" means the same as defined in section 29C.2.
b. "Emergency" means exigent circumstances demanding immediate action to protect life or property.
c. "Peace officer" means all of the following:
   (1) Sheriffs and their regular deputies who are subject to mandated law enforcement training.
   (2) Marshals and police officers of cities.
   (3) Peace officer members of the department of public safety as defined in chapter 80.
   (4) Special security officers employed by board of regents institutions as set forth in section 262.13.
   (5) Such employees of the department of transportation as are designated "peace officers" by resolution of the department under section 321.477.

d. "Property" means any land, dwelling, building, or other temporary or permanent structure that is privately owned.
e. "Response" means any action taken immediately before, during, or directly after a disaster occurs, which is intended to save lives, minimize injuries, mitigate property damage, or mitigate environmental damage.
f. "Volunteer" means any of the following:
   (1) An individual who is not part of a recognized voluntary organization, may have no formal training in emergency response, and comes to a disaster scene to provide uncompensated assistance.
   (2) An individual who is affiliated with a recognized voluntary or nonprofit organization and who is trained for specific disaster response activities. The individual’s relationship with the organization precedes the immediate disaster and the individual is invited by that organization to become involved, without compensation, in the disaster
2. A volunteer may enter upon or in property in response to a disaster if all of the following apply:
   a. The governor has issued a proclamation of a disaster emergency pursuant to section 29C.6.
   b. An emergency exists on the property or is directly affecting the property.
   c. A reasonable effort has been made to contact or locate the owner, lessee, or person in lawful possession of the property to obtain express consent to enter the property. If circumstances allow, the effort to contact or locate the owner, lessee, or person in lawful possession of the property shall be made prior to entry upon or in the property. If circumstances require immediate mitigation to prevent harm, or further harm, to life or property, effort to contact or locate the owner, lessee, or person in lawful possession of the property shall be made as soon as is practicable after entry upon or in the property.
   d. Entry is made in good faith.
3. A volunteer who enters upon or in property pursuant to subsection 2 shall be immune from civil liability for acts or omissions in good faith by the volunteer while upon or in the property, unless such acts or omissions constitute recklessness, willful misconduct, or gross negligence.
4. A volunteer who enters upon or in property pursuant to subsection 2 shall not have committed criminal mischief pursuant to section 716.1 or trespass pursuant to section 716.7.
5. The owner, lessee, or person in lawful possession of property shall be immune from civil liability for good-faith acts and omissions causing personal injury to, or the death of, a volunteer who has entered such property pursuant to subsection 2, unless such acts or omissions by the owner, lessee, or person in lawful possession of the property constitutes recklessness, willful misconduct, or gross
negligence.
6. This section does not apply to a volunteer who knowingly enters upon or in property, or remains upon or in property, after being issued an express command to not enter upon or in the property, or an express command to remove or vacate the property, by any of the following:
   a. An agent of a federal law enforcement agency.
   b. An agent of a federal, state, or local emergency management agency.
   c. A peace officer.
   d. A member of the state military called into state active duty pursuant to section 29A.8, subsection 1, paragraph "c".
   e. The owner, lessee, or person in lawful possession of the property.

EXPLANATION

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

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

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

A volunteer may enter property in response to a disaster if the governor has issued a proclamation of a disaster emergency, an emergency exists on the property or is directly affecting the property, a reasonable effort has been made to contact or locate the owner, lessee, or person in lawful possession of
the property to obtain express consent to enter the property, and entry is made in good faith. "Property" is defined in the bill as any land, dwelling, building, or other temporary or permanent structure that is privately owned. "Disaster" and "emergency" are also defined in the bill.

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

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