

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 50

Session of
1981

INTRODUCED BY J. L. WRIGHT, MILLER AND BURNS, JANUARY 19, 1981

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MARCH 30, 1982

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 nonmedical good Samaritan civil immunity.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. ~~Section 8332 of~~ Title 42, act of November 25, <—
7 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated
8 Statutes, is amended BY ADDING A SECTION to read: <—

9 ~~§ 8332. Nonmedical good Samaritan civil immunity.~~ <—

10 ~~(a) General rule. Any person who renders emergency care,~~
11 ~~first aid or rescue at the scene of an emergency, or moves the~~
12 ~~person receiving such care, first aid and rescue to a hospital~~
13 ~~or other place of medical care, shall not be liable to such~~
14 ~~person for any civil damages as a result of any acts or~~
15 ~~omissions in rendering the emergency care, first aid or rescue,~~
16 ~~or moving the person receiving the same to a hospital or other~~
17 ~~place of medical care, except any acts or omissions~~

1 ~~intentionally designed to harm or any grossly negligent acts or~~
2 ~~omissions which result in harm to the person receiving the~~
3 ~~emergency care, first aid or rescue or being moved to a hospital~~
4 ~~or other place of medical care.~~

5 ~~(a.1) Assistance upon request.~~

6 ~~(1) Notwithstanding any provisions of law to the~~
7 ~~contrary, no individual, partnership, corporation,~~
8 ~~association or other entity shall be liable in civil damages~~
9 ~~as a result of acts taken or omitted in anticipation of, in~~
10 ~~preparation for or in the course of rendering care,~~
11 ~~assistance or advice with respect to an incident creating a~~
12 ~~danger to person, property or the environment as a result of~~
13 ~~spillage, seepage, fire, explosion or other release of~~
14 ~~compressed gases or other hazardous substances, as defined in~~
15 ~~the act of November 9, 1965 (P.L.657, No.323), known as the~~
16 ~~"Hazardous Substances Transportation Act," be they liquid or~~
17 ~~solid, or the possibility thereof, during the course of~~
18 ~~transportation of such gases or other hazardous substances,~~
19 ~~be they liquid or solid, by any mode whatsoever, including~~
20 ~~loading and unloading.~~

21 ~~(2) Notwithstanding the foregoing, nothing in this~~
22 ~~section applies to the rendering of such care or assistance~~
23 ~~where the same is rendered for remuneration beyond~~
24 ~~reimbursement for out of pocket expenses in connection~~
25 ~~therewith or with the expectation of such remuneration from~~
26 ~~the recipient or recipients of such care or assistance of~~
27 ~~someone on his or their behalf.~~

28 ~~(3) This section shall not preclude liability for civil~~
29 ~~damages as the result of gross negligence or intentional~~
30 ~~misconduct. Reckless, willful or wanton misconduct shall~~

~~constitute gross negligence.~~

~~(b) Exceptions.~~

~~(1) This section shall not relieve a driver of an ambulance or other emergency or rescue vehicle from liability arising from operation or use of such vehicle.~~

~~(2) In order for any person to receive the benefit of the exemption from civil liability provided for in subsection (a), he shall be, at the time of rendering the emergency care, first aid or rescue or moving the person receiving emergency care, first aid or rescue to a hospital or other place of medical care, the holder of a current certificate evidencing the successful completion of a course in first aid, advanced life saving or basic life support sponsored by the American National Red Cross or the American Heart Association or an equivalent course of instruction approved by the Department of Health in consultation with a technical committee of the Pennsylvania Emergency Health Services Council and must be performing techniques and employing procedures consistent with the nature and level of the training for which the certificate has been issued.~~

~~Section 2. This act shall take effect in 60 days.~~

§ 8336. CIVIL IMMUNITY FOR ASSISTANCE UPON REQUEST IN

INCIDENTS INVOLVING THE TRANSPORTATION OF HAZARDOUS

SUBSTANCES.

(A) GENERAL RULE.--NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, DURING THE COURSE OF TRANSPORTATION, INCLUDING THE LOADING AND UNLOADING THEREOF, OF HAZARDOUS SUBSTANCES, NO PERSON SHALL BE LIABLE IN CIVIL DAMAGES WHEN HIS CONDUCT CONSISTS SOLELY OF ACTION OR INACTION TAKEN OR OMITTED IN THE COURSE OF RENDERING CARE, ASSISTANCE OR ADVICE VOLUNTARILY AND

1 UPON REQUEST OF ANY POLICE AGENCY, FIRE DEPARTMENT, RESCUE OR
2 EMERGENCY SQUAD, ANY OTHER GOVERNMENTAL AGENCY, THE PERSON
3 RESPONSIBLE FOR PREVENTING, MITIGATING OR CLEANING UP THE DANGER
4 TO PERSON, PROPERTY OR ENVIRONMENT OR THE OWNER OR MANUFACTURER
5 OF THE HAZARDOUS SUBSTANCE INVOLVED, WITH RESPECT TO AN INCIDENT
6 CREATING A DANGER TO PERSON, PROPERTY OR ENVIRONMENT AS A RESULT
7 OF SPILLAGE, LEAKAGE, SEEPAGE, FIRE, EXPLOSION OR OTHER
8 ACCIDENTAL OR POTENTIAL ACCIDENTAL RELEASE OF HAZARDOUS
9 SUBSTANCES.

10 (B) EXCLUSIONS.--THE IMMUNITIES PROVIDED IN THIS SECTION
11 SHALL NOT APPLY TO ANY PERSON WHO:

12 (1) IS UNDER A LEGAL DUTY TO RESPOND TO THE INCIDENT;

13 (2) RECEIVED REMUNERATION BEYOND REIMBURSEMENT FOR OUT
14 OF POCKET EXPENSES FOR SERVICES IN RENDERING SUCH CARE,
15 ASSISTANCE OR ADVICE IN CONNECTION THEREWITH OR HAD THE
16 EXPECTATION OF RECEIVING SUCH REMUNERATION FROM THE RECIPIENT
17 OF SUCH CARE, ASSISTANCE OR ADVICE OR FROM SOMEONE ACTING ON
18 HIS BEHALF; OR

19 ~~(3) DOES NOT PERSONALLY POSSESS OR DOES NOT PROVIDE~~ <—
20 ~~PERSONNEL WHO POSSESS THE SKILL, TRAINING OR KNOWLEDGE TO~~
21 ~~RENDER THE CARE, ASSISTANCE OR ADVICE REQUESTED WITH REGARD~~
22 ~~TO THE SAFE HANDLING OF THE HAZARDOUS SUBSTANCE INVOLVED AND~~
23 ~~ITS EFFECTS.~~

24 (3) DOES NOT PERSONALLY POSSESS OR DOES NOT PROVIDE
25 PERSONNEL WHO POSSESS THE SKILL, TRAINING OR KNOWLEDGE WITH
26 REGARD TO THE SAFE HANDLING OF HAZARDOUS SUBSTANCES, THEIR
27 EFFECTS AND INCIDENTS INVOLVING THE TRANSPORTATION OF
28 HAZARDOUS SUBSTANCES IN ORDER TO RENDER THE CARE, ASSISTANCE
29 OR ADVICE REQUESTED.

30 (C) DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES WHEN USED

1 IN THIS SECTION SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES
2 OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

3 "HAZARDOUS SUBSTANCES." ALL SUBSTANCES WHICH ARE DEFINED AS
4 HAZARDOUS IN THE ACT OF NOVEMBER 9, 1965 (P.L.657, NO.323),
5 KNOWN AS THE "HAZARDOUS SUBSTANCES TRANSPORTATION ACT," OR ANY
6 SUBSEQUENT AMENDMENT THERETO.

7 "PERSON." ANY INDIVIDUAL, PARTNERSHIP, CORPORATION,
8 ASSOCIATION OR OTHER ENTITY.

9 (D) PERSONS LEGALLY OBLIGATED.--NOTHING IN THIS SECTION
10 SHALL BE CONSTRUED TO LIMIT OR OTHERWISE AFFECT OR PRECLUDE THE
11 LIABILITY OF ANY PERSON WHO IS LEGALLY OBLIGATED TO RENDER SUCH
12 CARE, ASSISTANCE OR ADVICE.

13 (E) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.--NOTHING IN THIS
14 SECTION SHALL BE CONSTRUED TO LIMIT OR OTHERWISE AFFECT OR
15 PRECLUDE THE LIABILITY OF ANY PERSON RESULTING FROM SUCH
16 PERSON'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT. RECKLESS,
17 WILLFUL OR WANTON MISCONDUCT SHALL CONSTITUTE GROSS NEGLIGENCE.

18 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.