

HOUSE BILL 1383

D3

8lr2251

By: **Delegate Schuh**

Introduced and read first time: February 8, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Good Samaritan – State of Emergency – Liability Protection**

3 FOR the purpose of providing that certain persons that provide services or goods in
4 response to a state of emergency proclaimed by the Governor are not liable in
5 damages, under certain circumstances, for personal injury, wrongful death,
6 property damage, or other loss caused by an act, error, or omission, in providing
7 the services or goods; providing for certain exceptions; providing for the
8 construction and application of this Act; and generally relating to certain
9 liability protection for certain persons that provide services or goods in response
10 to a state of emergency proclaimed by the Governor under certain
11 circumstances.

12 BY adding to

13 Article – Courts and Judicial Proceedings

14 Section 5–642

15 Annotated Code of Maryland

16 (2006 Replacement Volume and 2007 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 **5–642.**

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
22 MEANINGS INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) “EMERGENCY” MEANS ENDANGERMENT OF PUBLIC SAFETY**
2 **OR A REASONABLE APPREHENSION OF IMMEDIATE DANGER TO PUBLIC SAFETY**
3 **RESULTING FROM:**

4 **(I) BIOLOGICAL, CHEMICAL, OR NUCLEAR AGENTS;**

5 **(II) TERRORISM;**

6 **(III) A PANDEMIC OR EPIDEMIC OF INFECTIOUS DISEASE;**

7 **(IV) ACTS OF NATURE, INCLUDING AN EARTHQUAKE,**
8 **HURRICANE, TORNADO, FIRE, COLLAPSE, WIND, STORM, FLOOD, OR WAVE**
9 **ACTION; OR**

10 **(V) ANY OTHER DISASTER OR CATASTROPHIC EVENT.**

11 **(3) “EMERGENCY MANAGEMENT OFFICIAL” MEANS AN**
12 **APPOINTED OR ELECTED STATE OR LOCAL GOVERNMENT OFFICIAL WITH**
13 **OVERALL EXECUTIVE RESPONSIBILITY TO COORDINATE A RESPONSE TO AN**
14 **EMERGENCY IN THE JURISDICTION IN WHICH THE EMERGENCY OCCURS.**

15 **(B) THIS SECTION APPLIES TO AN EMERGENCY FOR WHICH THE**
16 **GOVERNOR ISSUES A PROCLAMATION OF A STATE OF EMERGENCY UNDER §**
17 **14-303 OF THE PUBLIC SAFETY ARTICLE.**

18 **(C) A PERSON AND OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS**
19 **OF THE PERSON, ARE NOT LIABLE IN DAMAGES FOR ANY PERSONAL INJURY,**
20 **WRONGFUL DEATH, PROPERTY DAMAGE, OR OTHER LOSS CAUSED BY AN ACT,**
21 **ERROR, OR OMISSION IN PROVIDING SERVICES OR GOODS, IF:**

22 **(1) THE ACT, ERROR, OR OMISSION WAS IN GOOD FAITH AND IN**
23 **PREPARATION FOR, ANTICIPATION OF, OR DURING A TIME OF EMERGENCY AND**
24 **IN A PLACE OF EMERGENCY;**

25 **(2) THE SERVICES OR GOODS WERE PROVIDED VOLUNTARILY**
26 **AND WITHOUT COMPENSATION AT THE REQUEST, DIRECTION, OR CONTROL OF A**
27 **STATE OR LOCAL GOVERNMENT EMERGENCY MANAGEMENT OFFICIAL ACTING**
28 **IN AN OFFICIAL CAPACITY; AND**

29 **(3) THE ACT, ERROR, OR OMISSION DOES CONSTITUTE GROSS**
30 **NEGLIGENCE, RECKLESS, WILLFUL, OR WANTON MISCONDUCT, OR**
31 **INTENTIONALLY TORTIOUS MISCONDUCT.**

1 (D) (1) THIS SECTION DOES NOT CREATE, AND MAY NOT BE
2 CONSTRUED AS CREATING, A NEW CAUSE OF ACTION OR SUBSTANTIVE LEGAL
3 RIGHT AGAINST A PERSON, OR AN OFFICER, DIRECTOR, EMPLOYEE, OR AGENT
4 OF THE PERSON, WHO PROVIDES SERVICES OR GOODS.

5 (2) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE
6 CONSTRUED AS AFFECTING, ANY IMMUNITIES FROM CIVIL LIABILITY OR
7 DEFENSES ESTABLISHED BY ANY OTHER PROVISIONS OF THE CODE OR
8 AVAILABLE AT COMMON LAW, TO WHICH A PERSON, OR AN OFFICER, DIRECTOR,
9 EMPLOYEE, OR AGENT OF THE PERSON, MAY BE ENTITLED.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
11 construed to apply only prospectively and may not be applied or interpreted to have
12 any effect on or application to any cause of action arising before the effective date of
13 this Act.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2008.