

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 269

(Senator Lee, *et al.*)

Judicial Proceedings and Education, Health,
and Environmental Affairs

Environment and Transportation

Emergency Veterinary Care - Immunity From Liability

This bill establishes immunity from civil liability for specified individuals who are providing veterinary aid, care, or assistance to an animal under specified circumstances. The bill also exempts individuals who are immune from liability under the bill from specified prohibitions on the practice of veterinary medicine.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances, as discussed below.

Local Effect: The bill is not expected to materially affect local finances, as discussed below.

Small Business Effect: Meaningful. Small business animal care/veterinary providers that avoid litigation and liability benefit as a result of the bill. According to the Department of Information Technology's open data portal, there are currently 559 licensed veterinary hospitals and 2,618 registered veterinarians in the State. It is assumed that many of these entities are considered small businesses.

Analysis

Bill Summary: The following individuals are not civilly liable for any act or omission in giving any veterinary aid, care, or assistance to an animal where the owner or custodian of the animal is not available to grant permission:

- an individual licensed by the State to provide veterinary care, a student of veterinary medicine who works under the responsible direct supervision of a veterinary practitioner as defined by § 2-301(c) of the Agriculture Article, or a veterinary technician registered by the State under § 2-309 of the Agriculture Article;
- an individual who is licensed by the State to provide medical care;
- a member of any State, county, municipal, or volunteer fire department, ambulance and rescue squad, or law enforcement agency, or a corporate fire department;
- volunteer fire department or ambulance and rescue squad whose members have immunity;
- a corporation when its fire department personnel are immune because they are members of a State, county, municipal, or volunteer fire department, ambulance and rescue squad, or law enforcement agency, or a corporate fire department; and
- an individual employed or designated by a local government as an animal control officer while responding in the individual's official capacity to a call in the community.

The immunity from civil liability applies if (1) the act or omission is not one of gross negligence; (2) the veterinary aid, care, or assistance is provided without fee or other compensation from the owner or custodian of the animal; and (3) the veterinary aid, care, or assistance is provided at the scene of an emergency, in transit to a veterinary facility, or through communications with licensed veterinary personnel providing emergency veterinary assistance.

Prohibitions on the practice of veterinary medicine under § 2-313(a) of the Agriculture Article do not apply to an act or omission in giving emergency veterinary aid, care, or assistance that qualifies for immunity under the bill.

Current Law:

Practice of Veterinary Medicine: Section 2-313(a) of the Agriculture Article establishes several conditions and restrictions on the practice of veterinary medicine. A person may not practice veterinary medicine unless (1) the person is licensed, registered, and authorized to engage in the practice of veterinary medicine under specified statutory provisions or (2) the person's license and registration are displayed in the person's regularly established office and place of practice. Additional prohibitions apply to (1) practicing veterinary medicine under an alternate name; (2) advertising specified veterinary offices or hospitals in violation of the rules and regulations of the Maryland State Board of Veterinary Medical Examiners (board); (3) selling or dispensing medication; (4) advertising as a board registered veterinary technician unless registered with the board; and (5) practicing as a veterinary technician unless employed by a veterinary practitioner.

Also, a person may not own, maintain, conduct, operate, or manage a veterinary office, veterinary dental office, veterinary hospital, or a dog, cat, or animal hospital, unless (1) the person is a licensed veterinarian or (2) the office or hospital is under the direct supervision and control of a licensed and registered veterinarian and a licensed or registered veterinarian is employed in the office or hospital.

Immunity from Civil Liability for Rendering Emergency Veterinary Aid: A person licensed by the State to provide veterinary care or a student of veterinary medicine who works under the responsible direct supervision of a veterinary practitioner who, for no fee or compensation, renders veterinary aid, care, or assistance in an emergency situation in which the owner or custodian of the animal is not available to grant permission is immune from liability, as described under § 5-614 of the Courts and Judicial Proceedings Article, which establishes that these individuals are not liable for any civil damages as the result of any professional act or omission by the person not amounting to gross negligence.

The Good Samaritan Act: Under the Good Samaritan Act (Courts and Judicial Proceedings Article, § 5-603), various rescue and medical personnel are immune from civil liability for any act or omission in giving any assistance or medical care, if (1) the act or omission is not grossly negligent; (2) the assistance or medical care is provided without fee or other compensation; and (3) the assistance or medical care is provided at the scene of an emergency, in transit to a medical facility, or through communications with personnel providing emergency assistance.

The rescue and medical personnel covered by the Act's protections are:

- individuals licensed by this State to provide medical care;
- members of any State, county, municipal, or volunteer fire department, ambulance and rescue squad, or law enforcement agency; the National Ski Patrol System; or a corporate fire department responding to a call outside of its corporate premises, if the member has completed specified training, is certified or licensed by this State as an emergency medical services provider, or is administering medications or treatment approved for use in response to an apparent drug overdose and the member meets specified licensing and certification requirements;
- a volunteer fire department or ambulance and rescue squad whose members have immunity; and
- a corporation when its fire department personnel are immune under the Act.

An individual who is not covered by the categories listed above is not civilly liable for any act or omission in providing assistance or medical aid to a victim at the scene of an emergency, if (1) the assistance or aid is provided in a reasonably prudent manner without fee or other compensation and (2) the individual relinquishes care of the victim when

someone who is licensed or certified by the State to provide medical care or services becomes available to take responsibility.

The Fire and Rescue Company Act: The Fire and Rescue Company Act (Courts and Judicial Proceedings Article, § 5-604) provides civil immunity to a fire or rescue company and its personnel for any act or omission in the course of performing their duties. The Act contains provisions pertaining to waiver of immunity with respect to actions to recover damages for the negligent operation of a motor vehicle.

State Expenditures: The bill is not expected to materially affect State finances. The Maryland Department of Agriculture advises that the bill does not have a major impact on the State Board of Medical Veterinary Examiners' operating budget and does not foresee any future expenditures as a result of the bill.

The Department of State Police (DSP) advises that it is not aware of any DSP lawsuits related to animal care or neglect.

Local Expenditures: To the extent that the bill extends immunity from civil liability to local governments/local government personnel that is not already available under State law, then the bill may reduce local expenditures. However, any such reduction is not expected to materially affect local finances.

Montgomery County advises that the bill does not impact its Animal Services Division, since it applies to emergency veterinary care services to the community that the division does not provide.

The City of Havre de Grace advises that the additional protections afforded by the bill are already covered by the city's insurance policies and are not expected to reduce insurance premiums.

The Frederick County Division of Animal Control advises that it benefits from the bill, since the division serves as the county's only animal control facility and is often tasked with transporting sick or injured animals to local veterinarians for medical care.

Additional Information

Prior Introductions: None.

Cross File: HB 216 (Delegate Lam, *et al.*) - Environment and Transportation.

Information Source(s): Charles, Frederick, and Montgomery counties; cities of Frederick and Havre de Grace; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of State Police; Department of Information Technology; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2017
fn/kdm Third Reader - March 16, 2017
Revised - Amendment(s) - March 16, 2017

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510