

(EMERGENCY) (New Draft of H.P. 674, L.D. 907) (New Title) FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

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NO. 1777

H.P. 1299 House of Representatives, June 9, 1987 Reported by Representative PARADIS from the Committee on Judiciary and printed under Joint Rule 2.

EDWIN H. PERT, Clerk Original bill sponsored by Representative KILKELLY of Wiscasset. Cosponsored by Representative COLES of Harpswell, Senators CAHILL of Sagadahoc and SEWALL of Lincoln.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT to Clarify and Limit Personal Liability of Volunteer Firemen and Volunteer Ambulance Drivers.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, nonprofit incorporated ambulance and fire services are vitally important to the health and well-being of the people of this State, particularly in rural areas; and

Whereas, these services are quasi-governmental in nature and similar to fire protection and other gov

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1 Whereas, the Maine Tort Claims Act does not 2 clearly cover these services; and

3 Whereas, clear coverage of these services by the 4 Maine Tort Claims Act is essential to limit the lia-5 bility of these services and assist them in procuring 6 necessary insurance; and

7 Whereas, in the judgment of the Legislature, 8 these facts create an emergency within the meaning of 9 the Constitution of Maine and require the following 10 legislation as immediately necessary for the preser-11 vation of the public peace, health and safety; now, 12 therefore,

Be it enacted by the People of the State of Maine as follows:

15 Sec. 1. 14 MRSA §8102, sub-§1, as amended by PL 16 1977, c. 696, §165, is further amended to read:

Employee. "Employee" means a person acting on 17 18 behalf of the governmental entity in any official ca-19 whether temporarily or permanently, pacity, and 20 with without compensation from local, whether or 21 state or federal including funds, elected or appointed officials, volunteer firefighters as defined 22 23 in Title 30, section 3771, rescue-squad-members-where 24 the-rescue-squad-receives-full-or--partial--financial 25 support--from-political-subdivisions, emergency medical service personnel and Maine National Guardsmen 26 27 while in active state service under Title 37-A, sec-28 tions 57 and 207 and while engaged in the Domestic 29 Action Program, but the term "employee" shall not mean a person or other legal entity acting in the ca-30 31 pacity of an independent contractor under contract to 32 the governmental entity.

33 Sec. 2. 14 MRSA §8102, sub-§1-A is enacted to 34 read:

35	1-A. Emergency medical service. "Emergency medi-
36	cal service" means a nonprofit, incorporated ambu-
37	lance service or first responder service licensed un-
38	der Title 32, chapter 2-B, receiving full or partial
39	financial support from or officially recognized by

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the State, a municipality or county or an entity created under Title 30, chapter 203 or 204-A, except when the emergency medical service is acting outside the scope of activities expressly authorized by the State, municipality, county or entity created under Title 30, chapter 203 or 204-A.

Sec. 3. 14 MRSA §8102, sub-§3, as amended by PL 1985, c. 765, §3, is further amended to read:

3. Political subdivision. "Political subdivision" means any city, town, plantation, county, administrative entity or instrumentality created pursuant to Title 30, chapters 203 and 204-A, quasi-municipal corporation and special purpose district, including, but not limited to, any water district, sanitary district, hospital district and, school district of any type, any volunteer fire association as defined in Title 30, section 3771 and any emergency medical service.

19 Sec. 4. 30 MRSA §3775, sub-§1, as enacted by PL 20 1973, c. 680, §5, is repealed.

Sec. 5. 30 MRSA §3776, as enacted by PL 1973, c. 680, §5, is repealed.

23 Emergency clause. In view of the emergency cited 24 in the preamble, this Act shall take effect when ap-25 proved.

STATEMENT OF FACT

This new draft has 2 purposes: First, the new draft clarifies the Maine Tort Claims Act's applicability to volunteer firefighters who are members of a volunteer fire association receiving some funding from or otherwise officially recognized by a municipality and to the association itself. This new draft repeals provisions of the Maine Revised Statutes, Title 30, that are inconsistent with the Maine Tort Claims Act coverage of volunteer firefighters.

Secondly, the new draft amends the Maine Tort Claims Act to cover clearly emergency medical service

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personnel acting for a nonprofit, incorporated, li-1 2 censed ambulance service or first responder service 3 and such a service itself. To be included in the Maine Tort Claims Act the service must receive some 4 5 funding, or otherwise be officially recognized, by a governmental entity. The governmental entity may expressly authorize the emergency medical service to б 7 perform only certain activities on its behalf. 8 In 9 such a case, the emergency medical service would not be covered by the Maine Tort Claims Act when it is 10 acting outside the scope of those authorized activi-11 12 ties.

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