

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1590

H.P. 1090

House of Representatives, April 18, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Senator BUSTIN of Kennebec and Representative CARROLL of Gray.

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STATE OF MAINE

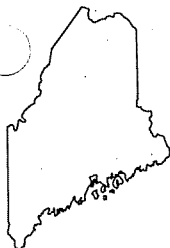
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act to Establish the Maine Volunteer Service Act.

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

14 MRSA c. 745 is enacted to read:

CHAPTER 745

VOLUNTEER SERVICE

§8301. Short title

This chapter may be known and cited as the "Maine Volunteer Service Act."

§8302. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Nonprofit corporation. "Nonprofit corporation" means any corporation that is exempt from taxation pursuant to the United States Internal Revenue Code, 26 United States Code, Section 501(a).

2. Nonprofit organization. "Nonprofit organization" means any organization that is exempt from taxation pursuant to the United States Internal Revenue Code, 26 United States Code, Section 501(c), as amended.

3. Volunteer. "Volunteer" means a person performing services for a nonprofit organization, a nonprofit corporation or a hospital, without compensation other than reimbursement for actual expenses incurred. The term includes a volunteer serving as a director, officer, trustee or direct service volunteer.

§8303. Immunity from suit

1. Immunity of volunteer. A volunteer is immune from civil liability in any action on the basis of any act or omission of that volunteer resulting in damage or injury if:

A. The volunteer was acting in good faith and within the scope of that volunteer's official functions and duties for a nonprofit organization, a nonprofit corporation or a hospital; and

B. The damage or injury was not caused by willful and wanton misconduct by the volunteer.

2. Organizational liability. In any suit against a nonprofit organization, a nonprofit corporation or a hospital for civil damages based upon the negligent act or omission of a volunteer, proof of that act or omission is sufficient to

2 establish the responsibility of the organization, corporation or  
3 hospital for the act or omission under the doctrine of respondeat  
4 superior, notwithstanding the immunity granted to the volunteer  
5 with respect to any act or omission under subsection 1.

6 **§8304. Exception**

8 Notwithstanding section 8303, a plaintiff may sue and  
9 recover civil damages from a volunteer based upon a negligent act  
10 or omission involving the operation of a motor vehicle. The  
11 amount recovered from the volunteer may not exceed the limits of  
12 applicable insurance coverage maintained by or on behalf of that  
13 volunteer with respect to the negligent operation of a motor  
14 vehicle in such circumstances.

16 **§8305. Claims affected**

18 This chapter applies to any civil suit for damages commenced  
19 on or after the effective date of this chapter, regardless of  
20 whether the claim arose prior to that date.

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23 **STATEMENT OF FACT**

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26 This bill tracks the Model State Volunteer Service Act,  
27 December 1990, developed by the United States Department of  
28 Justice and is intended to serve the purposes outlined in the  
29 preamble to that Act. It provides immunity from suit for the  
30 acts and omissions of volunteers to nonprofit organizations,  
31 corporations or hospitals when acting within the scope of their  
32 official functions. Unlike the model act, volunteers to  
33 governmental entities are not covered as they are already granted  
34 immunity under the Maine Tort Claims Act. Suits against  
volunteers for motor vehicle accidents are excluded from this  
immunity up to the limits of applicable insurance coverage.