

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4508

A bill to amend 1976 PA 390, entitled
"Emergency management act,"
by amending section 11 (MCL 30.411), as amended by 2002 PA 132.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) Personnel of disaster relief forces while on duty
2 are subject to all of the following provisions:

3 (a) If they are ~~an employee~~ **EMPLOYEES** of this state, they
4 have the powers, duties, rights, privileges, and immunities of and
5 receive the compensation incidental to their employment.

6 (b) If they are employees of a political subdivision of this
7 state, regardless of where serving, they have the powers, duties,
8 rights, privileges, and immunities and receive the compensation
9 incidental to their employment.

1 (c) If they are not employees of this state or a political
2 subdivision of this state, they are entitled to the same rights and
3 immunities as provided by law for the employees of this state. All
4 personnel of disaster relief forces shall, while on duty, be
5 subject to the operational control of the authority in charge of
6 disaster relief activities in the area in which they are serving,
7 and shall be reimbursed for all actual and necessary travel and
8 subsistence expenses.

9 (2) This state, any political subdivision of this state, or
10 the employees, agents, or representatives of this state or any
11 political subdivision of this state are not liable for personal
12 injury or property damage sustained by any person appointed or
13 acting as a member of disaster relief forces. This act ~~shall~~ **DOES**
14 not affect the right of a person to receive benefits or
15 compensation to which he or she may otherwise be entitled to under
16 the worker's disability compensation act of 1969, 1969 PA 317, MCL
17 418.101 to 418.941, any pension law, or any act of congress.

18 (3) This state or a political subdivision of this state
19 engaged in disaster relief activity is not liable for the death of
20 or injury to a person or persons, or for damage to property, as a
21 result of that activity. The employees, agents, or representatives
22 of this state or a political subdivision of this state and
23 nongovernmental disaster relief force workers or private or
24 volunteer personnel engaged in disaster relief activity are immune
25 from tort liability to the extent provided under section 7 of 1964
26 PA 170, MCL 691.1407. As used in this section, "disaster relief
27 activity" includes training for or responding to an actual,

1 impending, mock, or practice disaster or emergency.

2 (4) A person licensed to practice medicine or osteopathic
3 medicine and surgery ~~—~~ or a licensed hospital, ~~registered nurse,~~
4 ~~practical nurse, dentist, veterinarian, or paramedical person,~~
5 whether licensed in this or another state or by the federal
6 government or a branch of the armed forces of the United States,
7 ~~or a student nurse undergoing training in a licensed hospital in~~
8 ~~this or another state, that~~ **OR AN INDIVIDUAL LISTED IN SUBSECTION**
9 **(6), WHO** renders services during a state of disaster declared by
10 the governor and at the express or implied request of a state
11 official or agency or county or local coordinator or executive
12 body, is considered an authorized disaster relief worker or
13 facility and is not liable for an injury sustained by a person by
14 reason of those services, regardless of how or under what
15 circumstances or by what cause those injuries are sustained. The
16 immunity granted by this subsection does not apply in the event of
17 ~~a willful~~ **AN** act or omission **THAT IS WILLFUL OR GROSS NEGLIGENCE.**
18 If a civil action for malpractice is filed alleging ~~a willful~~ **AN**
19 act or omission **THAT IS WILLFUL OR GROSS NEGLIGENCE** resulting in
20 injuries, the services rendered that resulted in those injuries
21 shall be judged according to the standards required of persons
22 licensed in this state to perform those services.

23 (5) ~~A licensed dentist, veterinarian, registered nurse,~~
24 ~~practical nurse, or licensed paramedical person, whether licensed~~
25 ~~in this or another state or by the federal government or a branch~~
26 ~~of the armed forces of the United States, or a student nurse~~
27 ~~undergoing training in a licensed hospital in this or another state~~

1 AN INDIVIDUAL LISTED IN SUBSECTION (6), during a state of disaster
2 declared by the governor, may practice, in addition to the
3 authority granted by other statutes of this state, the
4 administration of anesthetics; minor surgery; intravenous,
5 subcutaneous, or intramuscular procedure; or oral and topical
6 medication; or a combination of these under the supervision of a
7 member of the medical staff of a licensed hospital of this state,
8 and may assist the staff member in other medical and surgical
9 proceedings.

10 (6) SUBSECTIONS (4) AND (5) APPLY TO ALL OF THE FOLLOWING
11 INDIVIDUALS:

12 (A) ANY OF THE FOLLOWING, IF LICENSED IN THIS OR ANOTHER STATE
13 OR BY THE FEDERAL GOVERNMENT OR A BRANCH OF THE ARMED FORCES OF THE
14 UNITED STATES:

15 (i) A REGISTERED NURSE.

16 (ii) A PRACTICAL NURSE.

17 (iii) A NURSING STUDENT ACTING UNDER THE SUPERVISION OF A
18 LICENSED NURSE.

19 (iv) A DENTIST.

20 (v) A VETERINARIAN.

21 (vi) A PHARMACIST.

22 (vii) A PHARMACIST INTERN ACTING UNDER THE SUPERVISION OF A
23 LICENSED PHARMACIST.

24 (viii) A PARAMEDIC.

25 (B) A MEDICAL RESIDENT UNDERGOING TRAINING IN A LICENSED
26 HOSPITAL IN THIS OR ANOTHER STATE.

27 (7) ~~—(6)—~~ A person owning or controlling real estate or other

1 premises who voluntarily and without compensation grants to this
2 state or a political subdivision of this state a license or
3 privilege, or otherwise permits this state or a political
4 subdivision of this state to inspect, designate, and use the whole
5 or any part or parts of the real estate or other premises for the
6 purpose of sheltering persons during an actual, impending, mock, or
7 practice disaster, together with his or her successors in interest,
8 if any, is not civilly liable for negligently causing the death of
9 or injury to any person on or about the real estate or premises
10 under the license, privilege, or permission or for loss or damage
11 to the property of the person.

12 (8) ~~—(7)—~~ A person owning or controlling real estate or other
13 premises who has gratuitously granted the use of the real estate or
14 other premises for the purposes stated in this section is legally
15 obligated to make known to the licensee any hidden dangers or
16 safety hazards that are known to the owner or occupant of the real
17 estate or premises that might possibly result in the death or
18 injury or loss of property to a person using the real estate or
19 premises.

20 (9) AS USED IN THIS SECTION, "GROSS NEGLIGENCE" MEANS CONDUCT
21 SO RECKLESS AS TO DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR
22 WHETHER AN INJURY RESULTS.