

HOUSE BILL No. 5416

January 21, 2004, Introduced by Reps. Nofs, Stahl, Pastor, Steil, Shackleton, Gaffney, Shaffer, Amos, Hoogendyk, Taub, LaJoy, Brandenburg, Hummel, Garfield, Palmer, Nitz, Newell, Emmons, Pappageorge, Ruth Johnson, McConico, Rivet, Moolenaar, Hunter, DeRossett, Rocca, DeRoche, Farhat, Walker, Caul and Wenke and referred to the Committee on Veterans Affairs and Homeland Security.

A bill to amend 1976 PA 390, entitled "Emergency management act," by amending the title and section 11 (MCL 30.411), the title as amended by 1990 PA 50 and section 11 as amended by 2002 PA 132.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to provide for planning, **prevention**, mitigation, response, and recovery ~~from~~ **in relation to** natural and human-made disaster within this state; to create the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; to repeal certain acts and parts of acts; and to repeal certain parts of the act.

1 Sec. 11. (1) Personnel of disaster relief forces while on
2 duty 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
5 and 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.

10 (c) If they are not employees of this state or a political
11 subdivision of this state, they are entitled to the same rights
12 and immunities as provided by law for the employees of this
13 state. All personnel of disaster relief forces shall, while on
14 duty, be subject to the operational control of the authority in
15 charge of disaster relief activities in the area in which they
16 are serving, and shall be reimbursed for all actual and necessary
17 travel and subsistence expenses.

18 (2) This state, any political subdivision of this state, or
19 the employees, agents, or representatives of this state or any
20 political subdivision of this state are not liable for personal
21 injury or property damage sustained by any person appointed or
22 acting as a member of disaster relief forces. This act ~~shall~~
23 **does** not affect the right of a person to receive benefits or
24 compensation ~~to which he or she may otherwise be entitled to~~
25 under the worker's disability compensation act of 1969, 1969
26 PA 317, MCL 418.101 to 418.941, any pension law, or any act of
27 congress.

1 (3) This state or a political subdivision of this state
2 engaged in disaster relief activity is not liable for the death
3 of or injury to a person, ~~or persons,~~ or for damage to
4 property, as a result of that activity. The employees, agents,
5 or representatives of this state or a political subdivision of
6 this state and nongovernmental disaster relief force workers or
7 private or volunteer personnel engaged in disaster relief
8 activity are immune from tort liability to the extent provided
9 under section 7 of 1964 PA 170, MCL 691.1407. ~~As used in this~~
10 ~~section, "disaster relief activity" includes training for or~~
11 ~~responding to an actual, impending, mock, or practice disaster or~~
12 ~~emergency.~~

13 (4) A person licensed to practice medicine or osteopathic
14 medicine and surgery, or a licensed hospital, registered nurse,
15 practical nurse, dentist, veterinarian, or paramedical person,
16 whether licensed in this or another state or by the federal
17 government or a branch of the armed forces of the United States,
18 or a student nurse undergoing training in a licensed hospital in
19 this or another state, that renders services during a state of
20 disaster declared by the governor and at the express or implied
21 request of a state official or agency or county or local
22 coordinator or executive body, is considered an authorized
23 disaster relief worker or facility and is not liable for an
24 injury sustained by a person by reason of those services,
25 regardless of how or under what circumstances or by what cause
26 those injuries are sustained. The immunity granted by this
27 subsection does not apply in the event of a willful act or

1 omission. If a civil action for malpractice is filed alleging a
2 willful act or omission resulting in injuries, the services
3 rendered that resulted in those injuries shall be judged
4 according to the standards required of persons licensed in this
5 state to perform those services.

6 (5) A licensed dentist, veterinarian, registered nurse,
7 practical nurse, or licensed paramedical person, whether licensed
8 in this or another state or by the federal government or a branch
9 of the armed forces of the United States, or a student nurse
10 undergoing training in a licensed hospital in this or another
11 state, during a state of disaster declared by the governor, may
12 practice, in addition to the authority granted by other statutes
13 of this state, the administration of anesthetics; minor surgery;
14 intravenous, subcutaneous, or intramuscular procedure; ~~or~~ oral
15 and topical medication; or a combination of these under the
16 supervision of a member of the medical staff of a licensed
17 hospital of this state, and may assist the staff member in other
18 medical and surgical proceedings.

19 (6) A person owning or controlling real estate or other
20 premises who voluntarily and without compensation grants to this
21 state or a political subdivision of this state a license or
22 privilege, or otherwise permits this state or a political
23 subdivision of this state to inspect, designate, and use the
24 whole or any part or parts of the real estate or other premises
25 for the purpose of sheltering persons during an actual,
26 impending, mock, or practice disaster, ~~together with~~ **and** his or
27 her successors in interest, ~~if any,~~ is not civilly liable for

1 negligently causing the death of or injury to any person on or
2 about the real estate or premises under the license, privilege,
3 or permission or for loss or damage to the property of the
4 person.

5 (7) A person owning or controlling real estate or other
6 premises who has gratuitously granted the use of the real estate
7 or other premises for the purposes stated in this section is
8 legally obligated to make known to the licensee any hidden
9 dangers or safety hazards that are known to the owner or occupant
10 of the real estate or premises that might possibly result in
11 ~~the~~ death, ~~or~~ injury, or loss of property to a person using
12 the real estate or premises.

13 (8) A volunteer member of the citizen corps or other
14 component of the USA freedom corps is immune from tort liability
15 for injury to or death of a person or damage to property caused
16 by the volunteer while in the course of providing service as a
17 member of the citizen corps or other component of the USA freedom
18 corps if all of the following apply:

19 (a) The volunteer is acting or reasonably believes he or she
20 is acting within the scope of his or her authority.

21 (b) The volunteer's conduct is not willful or does not amount
22 to gross negligence that is the proximate cause of the injury or
23 damage.

24 (9) As used in this section:

25 (a) "Disaster relief activity" includes training for or
26 responding to an actual, impending, mock, or practice disaster or
27 emergency.

1 (b) "Gross negligence" means conduct so reckless as to
2 demonstrate a substantial lack of concern for whether an injury
3 results.

4 (c) "USA freedom corps" means the interagency initiative
5 established by executive order no. 13,254, 3 CFR 196 (2003),
6 reprinted in 42 USC 12501 note.