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**HOUSE BILL NO. 1590**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee for Courts of Justice  
on February 15, 2017)

(Patron Prior to Substitute—Delegate Campbell)

A *BILL to amend and reenact § 8.01-226 of the Code of Virginia, relating to duty of care to law-enforcement officers and firefighters; the fireman's rule.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-226 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-226. Duty of care to law-enforcement officers, firefighters, etc.**

A. An owner or occupant of real property containing premises normally open to the public shall, with respect to such premises, owe to firefighters, Department of Emergency Management hazardous materials officers, nonfirefighter regional hazardous materials emergency response team members, and law-enforcement officers who in the performance of their duties come upon that portion of the premises normally open to the public the duty to maintain the same in a reasonably safe condition or to warn of dangers thereon of which he knows or has reason to know, whether or not such premises are at the time open to the public.

An owner or occupant of real property containing premises not normally open to the public shall, with respect to such premises, owe the same duty to firefighters, Department of Emergency Management hazardous materials officers, nonfirefighter regional hazardous materials emergency response team members, and law-enforcement officers who he knows or has reason to know are upon, about to come upon, or imminently likely to come upon that portion of the premises not normally open to the public.

While otherwise engaged in the performance of his duties, a law-enforcement officer, Department of Emergency Management hazardous materials officer, nonfirefighter regional hazardous materials emergency response team member, or firefighter shall be owed a duty of ordinary care.

*The common-law doctrine known as the fireman's rule, a doctrine that limits a defendant's liability for otherwise culpable conduct resulting in property damage and injuries to the public officials named in this section, shall not be a defense to claims (i) against third parties whose negligent acts did not give rise to the emergency to which such public official is responding and who were not occupiers of the premises where such emergency arose and injuries occurred; (ii) arising out of further acts of negligence separate and apart from the negligent acts that gave rise to the emergency to which such public official is responding; (iii) based upon a violation of a statutory duty created for the express benefit of such public official; or (iv) against parties whose conduct qualifies as an intentional tort, gross negligence, or willful or wanton misconduct.*

B. For purposes of this section, ~~the term~~ "law-enforcement officers" ~~shall mean~~ means only police officers, sheriffs, and deputy sheriffs and ~~the term~~ "firefighter" "firefighters" includes (i) emergency medical personnel and (ii) special forest wardens designated pursuant to § 10.1-1135.

SENATE SUBSTITUTE

HB1590S1