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HOUSE BILL NO. 1739

Offered January 11, 2017

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A BILL to amend and reenact § 8.01-225 of the Code of Virginia, relating to civil immunity; emergency services and communications.

Patron—Minchew

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-225 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or

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59 orders AEDs, shall be immune from civil liability for any personal injury that results from any act or
60 omission in the use of an AED in an emergency where the person performing the defibrillation acts as
61 an ordinary, reasonably prudent person would have acted under the same or similar circumstances,
62 unless such personal injury results from gross negligence or willful or wanton misconduct of the person
63 rendering such emergency care.

64 8. Maintains an AED located on real property owned or controlled by such person shall be immune
65 from civil liability for any personal injury that results from any act or omission in the use in an
66 emergency of an AED located on such property unless such personal injury results from gross
67 negligence or willful or wanton misconduct of the person who maintains the AED or his agent or
68 employee.

69 9. Is an employee of a school board or of a local health department approved by the local governing
70 body to provide health services pursuant to § 22.1-274 who, while on school property or at a
71 school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii)
72 renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including,
73 but not limited to, the use of an automated external defibrillator (AED); or other emergency
74 life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of
75 Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs,
76 or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence
77 in acts or omissions on the part of such employee while engaged in the acts described in this
78 subdivision.

79 10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol
80 System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any
81 injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other
82 place or while transporting such injured or ill person to a place accessible for transfer to any available
83 emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by
84 him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable
85 for any civil damages for acts or omissions resulting from the rendering of such emergency care,
86 treatment, or assistance, including but not limited to acts or omissions which involve violations of any
87 state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such
88 emergency care or assistance, unless such act or omission was the result of gross negligence or willful
89 misconduct.

90 11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in
91 § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19
92 as administered by the Virginia Council for Private Education and is authorized by a prescriber and
93 trained in the administration of insulin and glucagon, who, upon the written request of the parents as
94 defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student
95 diagnosed as having diabetes who requires insulin injections during the school day or for whom
96 glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any
97 civil damages for ordinary negligence in acts or omissions resulting from the rendering of such
98 treatment if the insulin is administered according to the child's medication schedule or such employee
99 has reason to believe that the individual receiving the glucagon is suffering or is about to suffer
100 life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein,
101 the school board or school employing him shall not be liable for any civil damages for ordinary
102 negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

103 12. Is a school nurse, an employee of a school board, an employee of a local governing body, or an
104 employee of a local health department who is authorized by a prescriber and trained in the
105 administration of epinephrine and who provides, administers, or assists in the administration of
106 epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber
107 of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions
108 resulting from the rendering of such treatment.

109 13. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by
110 the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as
111 administered by the Virginia Council for Private Education who is authorized by a prescriber and trained
112 in the administration of epinephrine and who administers or assists in the administration of epinephrine
113 to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the
114 epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions
115 resulting from the rendering of such treatment. Whenever any employee is covered by the immunity
116 granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence
117 in acts or omissions resulting from such administration or assistance.

118 14. Is an employee of a provider licensed by the Department of Behavioral Health and
119 Developmental Services, or provides services pursuant to a contract with a provider licensed by the
120 Department of Behavioral Health and Developmental Services, who has been trained in the

121 administration of insulin and glucagon and who administers or assists with the administration of insulin
 122 or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for
 123 whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with
 124 § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions
 125 resulting from the rendering of such treatment if the insulin is administered in accordance with the
 126 prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is
 127 suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider
 128 licensed by the Department of Behavioral Health and Developmental Services or a person who provides
 129 services pursuant to a contract with a provider licensed by the Department of Behavioral Health and
 130 Developmental Services is covered by the immunity granted herein, the provider shall not be liable for
 131 any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such
 132 insulin or glucagon treatment.

133 15. Is an employee of a provider licensed by the Department of Behavioral Health and
 134 Developmental Services, or provides services pursuant to a contract with a provider licensed by the
 135 Department of Behavioral Health and Developmental Services, who has been trained in the
 136 administration of epinephrine and who administers or assists in the administration of epinephrine to a
 137 person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's
 138 instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions
 139 resulting from the rendering of such treatment.

140 16. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for
 141 overdose reversal in an emergency to an individual who is believed to be experiencing or about to
 142 experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary
 143 negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance
 144 with the provisions of subsection X of § 54.1-3408 or in his role as a member of an emergency medical
 145 services agency.

146 B. Any licensed physician serving without compensation as the operational medical director for an
 147 emergency medical services agency that holds a valid license as an emergency medical services agency
 148 issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission
 149 resulting from the rendering of emergency medical services in good faith by the personnel of such
 150 licensed agency unless such act or omission was the result of such physician's gross negligence or
 151 willful misconduct.

152 Any person serving without compensation as a dispatcher for any licensed public or nonprofit
 153 emergency medical services agency in the Commonwealth shall not be liable for any civil damages for
 154 any act or omission resulting from the rendering of emergency services in good faith by the personnel
 155 of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence
 156 or willful misconduct.

157 Any individual, certified by the State Office of Emergency Medical Services as an emergency
 158 medical services instructor and pursuant to a written agreement with such office, who, in good faith and
 159 in the performance of his duties, provides instruction to persons for certification or recertification as a
 160 certified basic life support or advanced life support emergency medical services provider shall not be
 161 liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf
 162 of such office unless such act or omission was the result of such emergency medical services instructor's
 163 gross negligence or willful misconduct.

164 Any licensed physician serving without compensation as a medical advisor to an E-911 system in the
 165 Commonwealth shall not be liable for any civil damages for any act or omission resulting from
 166 rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911
 167 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the
 168 result of such physician's gross negligence or willful misconduct.

169 Any licensed physician who directs the provision of emergency medical services, as authorized by
 170 the State Board of Health, through a communications device shall not be liable for any civil damages
 171 for any act or omission resulting from the rendering of such emergency medical services unless such act
 172 or omission was the result of such physician's gross negligence or willful misconduct.

173 Any licensed physician serving without compensation as a supervisor of an AED in the
 174 Commonwealth shall not be liable for any civil damages for any act or omission resulting from
 175 rendering medical advice in good faith to the owner of the AED relating to personnel training, local
 176 emergency medical services coordination, protocol approval, AED deployment strategies, and equipment
 177 maintenance plans and records unless such act or omission was the result of such physician's gross
 178 negligence or willful misconduct.

179 C. ~~Any communications services No person, service provider, as defined in § 58.1-647, including~~
 180 ~~mobile service, and any provider of Voice over Internet Protocol service, in the Commonwealth~~
 181 ~~equipment provider, public safety answering point (PSAP) as defined in § 56-484.19, or underlying~~

182 *service or equipment vendor of a PSAP shall not be liable for damages in any civil damages for action*
183 *for injuries, death, or loss to persons or property incurred by any person resulting from or caused by*
184 *any act or omission resulting from rendering such service with or without charge related to emergency*
185 *calls in the provision, operation, or maintenance of service or equipment used for emergency assistance,*
186 *regardless of the technology platform, including services or equipment that (i) receives, develops,*
187 *collects, or processes location information; (ii) relays, transfers, operates, maintains, or provides*
188 *emergency assistance services or emergency system capabilities; or (iii) provides emergency*
189 *communications or services for a police agency, fire department, emergency medical services agency, or*
190 *other public safety entity, unless such act or omission was the result of such service provider's gross*
191 *negligence or willful misconduct.*

192 *D. Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily*
193 *providing personnel to engage in rescue or recovery work at a mine not owned or operated by such*
194 *operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such*
195 *rescue or recovery work in good faith unless such act or omission was the result of gross negligence or*
196 *willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP*
197 *service" means any Internet protocol-enabled services utilizing a broadband connection, actually*
198 *originating or terminating in Internet Protocol from either or both ends of a channel of communication*
199 *offering real time, multidirectional voice functionality, including, but not limited to, services similar to*
200 *traditional telephone service.*

201 ~~*D. E. Nothing contained in this section shall be construed to provide immunity from liability arising*~~
202 ~~*out of the operation of a motor vehicle.*~~

203 *E. F. For the purposes of this section, "compensation" shall not be construed to include (i) the*
204 *salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii)*
205 *the salaries or wages of employees of a coal producer engaging in emergency medical services or first*
206 *aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263;*
207 *(iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members*
208 *of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person*
209 *who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses*
210 *approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use*
211 *at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses*
212 *reimbursed to any person providing care or assistance pursuant to this section.*

213 *For the purposes of this section, "emergency medical services provider" shall include a person*
214 *licensed or certified as such or its equivalent by any other state when he is performing services that he*
215 *is licensed or certified to perform by such other state in caring for a patient in transit in the*
216 *Commonwealth, which care originated in such other state.*

217 *Further, the public shall be urged to receive training on how to use CPR and an AED in order to*
218 *acquire the skills and confidence to respond to emergencies using both CPR and an AED.*