

15100065D

HOUSE BILL NO. 2082

Offered January 14, 2015

Prefiled January 14, 2015

A *BILL to amend and reenact § 8.01-225 of the Code of Virginia, relating to civil immunity for rendering emergency care; forcible entry of motor vehicle.*

Patron—Peace

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 or firefighter, as those terms are defined in § 8.01-226, 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 technician certified by the Board 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, rescue or emergency squad, 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 care attendant or technician 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 orders AEDs, shall be immune from civil liability for any personal injury that results from any act or

INTRODUCED

HB2082

59 omission in the use of an AED in an emergency where the person performing the defibrillation acts as
60 an ordinary, reasonably prudent person would have acted under the same or similar circumstances,
61 unless such personal injury results from gross negligence or willful or wanton misconduct of the person
62 rendering such emergency care.

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

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

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

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

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

106 13. Is an employee of a provider licensed by the Department of Behavioral Health and
107 Developmental Services, or provides services pursuant to a contract with a provider licensed by the
108 Department of Behavioral Health and Developmental Services, who has been trained in the
109 administration of insulin and glucagon and who administers or assists with the administration of insulin
110 or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for
111 whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with
112 § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions
113 resulting from the rendering of such treatment if the insulin is administered in accordance with the
114 prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is
115 suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider
116 licensed by the Department of Behavioral Health and Developmental Services or a person who provides
117 services pursuant to a contract with a provider licensed by the Department of Behavioral Health and
118 Developmental Services is covered by the immunity granted herein, the provider shall not be liable for
119 any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such
120 insulin or glucagon treatment.

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

15. In good faith and without compensation, administers naloxone in an emergency to an individual who is experiencing or is about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such administering person is a participant in a pilot program conducted by the Department of Behavioral Health and Developmental Services on the administration of naloxone for the purpose of counteracting the effects of opiate overdose.

B. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

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

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

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

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

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

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

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

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

182 E. [Expired.]

183 F. For the purposes of this section, the term "compensation" shall not be construed to include (i) the
184 salaries of police, fire, or other public officials or personnel who render such emergency assistance, (ii)
185 the salaries or wages of employees of a coal producer engaging in emergency medical technician service
186 or first aid service pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or
187 45.1-161.263, (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to
188 volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency, (iv) the
189 salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains
190 individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies,
191 (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an
192 emergency, or (v) expenses reimbursed to any person providing care or assistance pursuant to this
193 section.

194 For the purposes of this section, an emergency medical care attendant or technician shall be deemed
195 to include a person licensed or certified as such or its equivalent by any other state when he is
196 performing services which he is licensed or certified to perform by such other state in caring for a
197 patient in transit in the Commonwealth, which care originated in such other state.

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