

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 44-146.23 of the Code of Virginia, relating to health care provider
2 liability.

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

4 **1. That § 44-146.23 of the Code of Virginia is amended and reenacted as follows:**

5 § 44-146.23. Immunity from liability.

6 A. Neither the Commonwealth, nor any political subdivision thereof, nor federal agencies, nor
7 other public or private agencies, nor, except in cases of willful misconduct, public or private employees,
8 nor representatives of any of them, engaged in any emergency services activities, while complying with
9 or attempting to comply with this chapter or any rule, regulation, or executive order promulgated
10 pursuant to the provisions of this chapter, shall be liable for the death of, or any injury to, persons or
11 damage to property as a result of such activities. The provisions of this section shall not affect the right
12 of any person to receive benefits to which he would otherwise be entitled under this chapter, or under
13 the Workers' Compensation Act (§ 65.2-100 et seq.), or under any pension law, nor the right of any such
14 person to receive any benefits or compensation under any act of Congress. For the purposes of the
15 immunity conferred by this subsection, representatives of public or private employees shall include, but
16 shall not be limited to, volunteers in state and local services who are persons who serve in a Medical
17 Reserve Corps (MRC) unit or on a Community Emergency Response Team (CERT). For the purposes of
18 the immunity conferred by this subsection, public or private agencies, public or private employees, and
19 representatives of public or private employees shall include, but shall not be limited to, health care
20 providers as that term is defined in § 8.01-581.1.

21 B. Any person owning or controlling real estate or other premises who voluntarily and without
22 compensation grants a license or privilege, or otherwise permits the designation or use of the whole or
23 any part or parts of such real estate or premises for the purpose of sheltering persons, of emergency
24 access or of other uses relating to emergency services shall, together with his successors in interest, if

25 any, not be liable for negligently causing the death of, or injury to any person on or about such real
26 estate or premises or for loss of or damage to the property of any person on or about such real estate or
27 premises during such actual or impending disaster.

28 C. If any person holds a license, certificate, or other permit issued by any state, or political
29 subdivision thereof, evidencing the meeting of qualifications for professional, mechanical, or other
30 skills, the person may gratuitously render aid involving that skill in the Commonwealth during a
31 disaster, and such person shall not be liable for negligently causing the death of, or injury to, any person
32 or for the loss of, or damage to, the property of any person resulting from such gratuitous service.

33 D. No person, firm or corporation which gratuitously services or repairs any electronic devices or
34 equipment under the provisions of this section after having been approved for the purposes by the State
35 Coordinator shall be liable for negligently causing the death of, or injury to, any person or for the loss
36 of, or damage to, the property of any person resulting from any defect or imperfection in any such
37 device or equipment so gratuitously serviced or repaired.

38 E. Notwithstanding any law to the contrary, no individual, partnership, corporation, association,
39 or other legal entity shall be liable in civil damages as a result of acts taken voluntarily and without
40 compensation in the course of rendering care, assistance, or advice with respect to an incident creating a
41 danger to person, property, or the environment as a result of an actual or threatened discharge of a
42 hazardous substance, or in preventing, cleaning up, treating, or disposing of or attempting to prevent,
43 clean up, treat, or dispose of any such discharge, provided that such acts are taken under the direction of
44 state or local authorities responding to the incident. This section shall not preclude liability for civil
45 damages as a result of gross negligence, recklessness or willful misconduct. The provisions of this
46 section shall not affect the right of any person to receive benefits to which he would otherwise be
47 entitled under this chapter, or under the Workers' Compensation Act (§ 65.2-100 et seq.), or under any
48 pension law, nor the right of any such person to receive any benefits or compensation under any act of
49 Congress. The immunity provided by the provisions of this paragraph shall be in addition to, not in lieu
50 of, any immunities provided by § 8.01-225.

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