

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 8.01-225, 8.01-225.01, 8.01-225.2, 8.01-581.1, 32.1-45.1, 38.2-324,
2 44-146.16, 44-146.17, 44-146.18:1, 44-146.23, and 59.1-526 of the Code of Virginia and to
3 amend the Code of Virginia by adding a section numbered 8.01-225.02, relating to health care
4 provider liability protections.

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

6 **1. That §§ 8.01-225, 8.01-225.01, 8.01-225.2, 8.01-581.1, 32.1-45.1, 38.2-324, 44-146.16, 44-146.17,**
7 **44-146.18:1, 44-146.23, and 59.1-526 of the Code of Virginia are amended and reenacted, and that**
8 **the Code of Virginia is amended by adding a section numbered 8.01-225.02 as follows:**

9 § 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

10 A. Any person who:

11 1. In good faith, renders emergency care or assistance, without compensation, to any ill or
12 injured person at or near the scene of an accident, fire, or any life-threatening emergency, or en route
13 therefrom to any hospital, medical clinic or doctor's office, shall not be liable for any civil damages for
14 acts or omissions resulting from the rendering of such care or assistance.

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

21 3. In good faith and without compensation, including any emergency medical services technician
22 certified by the Board of Health, administers epinephrine in an emergency to an individual shall not be
23 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 any 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 or near 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, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, 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 or near 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 automated external defibrillator at or near the scene of an emergency, trains individuals to be operators of automated external defibrillators, or orders automated external

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

8. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, 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 not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

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

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

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

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

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

100 Any licensed physician who directs the provision of emergency medical services, as authorized
101 by the State Board of Health, through a communications device shall not be liable for any civil damages
102 for any act or omission resulting from the rendering of such emergency medical services unless such act
103 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 automated external defibrillator in this 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 automated external defibrillator relating to personnel training, local emergency medical services coordination, protocol approval, automated external defibrillator 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 this 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.

E. (Expires July 1, 2008) 1. In the absence of gross negligence or willful misconduct, a health care provider shall not be liable in any civil action resulting from (i) injuries to any health care worker sustained in connection with administration of the vaccinia (smallpox) vaccine or other smallpox countermeasure, or (ii) any injuries to any other person sustained as a result of such other person coming

131 into contact, directly or indirectly, with a health care worker; provided the vaccinia (smallpox) vaccine
132 or smallpox countermeasure was administered and monitored in accordance with the recommendations
133 of the Centers for Disease Control and Prevention in effect at the time of the vaccinia (smallpox)
134 vaccine or other smallpox countermeasure administration. Nothing in this subsection shall preclude an
135 injured health care worker, who is otherwise eligible for workers' compensation benefits pursuant to
136 Title 65.2, from receipt of such benefits.

137 2. In the absence of gross negligence or willful misconduct, a health care worker shall not be
138 liable in any civil action for injuries to any other person sustained as a result of such other person
139 coming into contact, directly or indirectly, with a health care worker, provided the vaccinia (smallpox)
140 vaccine or smallpox countermeasure was administered and monitored in accordance with the
141 recommendations of the Centers for Disease Control and Prevention in effect at the time of the vaccinia
142 (smallpox) vaccine or other smallpox countermeasure administration.

143 3. For the purposes of this subsection, "health care provider" means a health care provider
144 participating in a smallpox preparedness program, pursuant to a declaration by the United States
145 Department of Health and Human Services (HHS), through which individuals associated with the health
146 care provider have received the vaccinia (smallpox) vaccine or other smallpox countermeasure defined
147 by HHS from any hospital, clinic, state or local health department, or any other entity that is identified
148 by state or local government entities or the HHS to participate in a vaccination program.

149 4. For the purposes of this subsection, "health care worker" means a health care worker to whom
150 the vaccinia (smallpox) vaccine or other smallpox countermeasure has been administered as part of a
151 smallpox preparedness program pursuant to a declaration by HHS. Such health care workers shall
152 include but shall not be limited to: (i) employees of a health care provider referenced in subdivision 3,
153 (ii) independent contractors with a health care provider referenced in subdivision 3, (iii) persons who
154 have practice privileges in a hospital, (iv) persons who have agreed to be on call in an emergency room,
155 (v) persons who otherwise regularly deliver prehospital care to patients admitted to a hospital, and (vi)
156 first responders who, for the purposes of this section, are defined as any law-enforcement officer,

157 firefighter, emergency medical personnel, or other public safety personnel functioning in a role
158 identified by a federal, state, or local emergency response plan.

159 F. For the purposes of this section, the term "compensation" shall not be construed to include (i)
160 the salaries of police, fire or other public officials or personnel who render such emergency assistance,
161 (ii) the salaries or wages of employees of a coal producer engaging in emergency medical technician
162 service or first aid service pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199 or
163 45.1-161.263, (iii) complimentary lift tickets, food, lodging or other gifts provided as a gratuity to
164 volunteer members of the National Ski Patrol System, Inc., by any resort, group or agency, ~~or~~ (iv) the
165 salary of any person who (a) owns an automated external defibrillator for the use at the scene of an
166 emergency, (b) trains individuals, in courses approved by the Board of Health, to operate automated
167 external defibrillators at the scene of emergencies, (c) orders automated external defibrillators for use at
168 the scene of emergencies, or (d) operates an automated external defibrillator at the scene of an
169 emergency, or (v) reimbursement for the actual and necessary expenses of any person who renders
170 emergency care or assistance where such expenses are incurred as a result of the provision of such care
171 or assistance.

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

176 Further, the public shall be urged to receive training on how to use cardiopulmonary
177 resuscitation (CPR) and an automated external defibrillator (AED) in order to acquire the skills and
178 confidence to respond to emergencies using both CPR and an AED.

179 § 8.01-225.01. Certain immunity for health care providers during disasters under specific
180 circumstances.

181 A. In the absence of gross negligence or willful misconduct, any health care provider who
182 responds to a ~~man-made~~ disaster by delivering health care to persons injured in such ~~man-made~~ disaster
183 shall be immune from civil liability for any injury or wrongful death arising from abandonment by such

health care provider of any person to whom such health care provider owes a duty to provide health care when (i) a state or local emergency has been or is subsequently declared; and (ii) the provider was unable to provide the requisite health care to the person to whom he owed such duty of care as a result of the provider's voluntary or mandatory response to the relevant ~~man-made~~ disaster.

B. In the absence of gross negligence or willful misconduct, any hospital or other entity credentialing health care providers to deliver health care in response to a ~~man-made~~ disaster shall be immune from civil liability for any cause of action arising out of such credentialing or granting of practice privileges if (i) a state or local emergency has been or is subsequently declared; and (ii) the hospital has followed procedures for such credentialing and granting of practice privileges that are consistent with the Joint Commission on Accreditation of Healthcare Organizations' standards for granting emergency practice privileges.

C. For the purposes of this section:

"Disaster" means the circumstances described in § 44-146.16; and

"Health care provider" means those professions defined as such in § 8.01-581.1; and

~~"Man-made disaster" means the circumstances described in § 44-146.16.~~

D. The immunity provided by this section shall be in addition to, and shall not be in lieu of, any immunities provided in other state or federal law, including, but not limited to, §§ 8.01-225 and 44-146.23.

§ 8.01-225.02. Certain immunity for health care providers during disasters.

A. In the absence of gross negligence or willful misconduct, any health care provider who responds to a disaster by delivering health care during such disaster shall be immune from civil liability for any injury or wrongful death of any person arising from the delivery of health care when a state or local emergency has been or is subsequently declared. The failure of a health care provider in response to a disaster to deliver the same level or manner of health care that would be delivered under normal circumstances, where such failure results from a lack of any resource necessary for the delivery of such health care, shall not be a breach of any duty by such provider.

B. For purposes of this section:

"Disaster" means any "disaster," "emergency," or "major disaster" as those terms are used and defined in § 44-146.16; and

"Health care provider" has the same definition as provided in § 8.01-581.1.

§ 8.01-225.2. Immunity for those rendering emergency care to animals.

Any person, including a person licensed to practice veterinary medicine, who in good faith and without compensation renders emergency care or treatment to an injured animal at or near the scene of an emergency or accident shall not be liable for any injuries to such animals resulting from the rendering of such care or treatment.

§ 8.01-581.1. Definitions.

As used in this chapter:

"Health care" means any act, or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical diagnosis, care, treatment or confinement.

"Health care provider" means (i) a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, dentist, pharmacist, registered nurse or licensed practical nurse or a person who holds a multistate privilege to practice such nursing under the Nurse Licensure Compact, optometrist, podiatrist, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, clinical social worker, professional counselor, licensed marriage and family therapist, licensed dental hygienist, health maintenance organization, or emergency medical care attendant or technician who provides services on a fee basis; (ii) a professional corporation, all of whose shareholders or members are so licensed; (iii) a partnership, all of whose partners are so licensed; (iv) a nursing home as defined in § 54.1-3100 except those nursing institutions conducted by and for those who rely upon treatment by spiritual means alone through prayer in accordance with a recognized church or religious denomination; (v) a professional limited liability company comprised of members as described in subdivision A 2 of § 13.1-1102; (vi) a corporation, partnership, limited liability company or any other entity, except a state-operated facility, which employs or engages a licensed health care provider and which primarily renders health care services; or

(vii) a director, officer, employee, independent contractor, or agent of the persons or entities referenced herein, acting within the course and scope of his employment or engagement as related to health care or professional services.

"Health maintenance organization" means any person licensed pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 who undertakes to provide or arrange for one or more health care plans.

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Impartial attorney" means an attorney who has not represented (i) the claimant, his family, his partners, co-proprietors or his other business interests; or (ii) the health care provider, his family, his partners, co-proprietors or his other business interests.

"Impartial health care provider" means a health care provider who (i) has not examined, treated or been consulted regarding the claimant or his family; (ii) does not anticipate examining, treating, or being consulted regarding the claimant or his family; or (iii) has not been an employee, partner or co-proprietor of the health care provider against whom the claim is asserted.

"Malpractice" means any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or which should have been rendered, by a health care provider, to a patient.

"Patient" means any natural person who receives or should have received health care from a licensed health care provider except those persons who are given health care in an emergency situation which exempts the health care provider from liability for his emergency services in accordance with § 8.01-225 or § 44-146.23.

"Physician" means a person licensed to practice medicine or osteopathy in this Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

§ 32.1-45.1. Deemed consent to testing and release of test results related to infection with human immunodeficiency virus or hepatitis B or C viruses.

A. Whenever any health care provider, or any person employed by or under the direction and control of a health care provider, is directly exposed to body fluids of a patient in a manner which may,

265 according to the then current guidelines of the Centers for Disease Control, transmit human
266 immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the
267 exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus
268 or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such
269 test results to the person who was exposed. In other than emergency situations, it shall be the
270 responsibility of the health care provider to inform patients of this provision prior to providing them
271 with health care services which create a risk of such exposure.

272 B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any
273 person employed by or under the direction and control of a health care provider, in a manner which may,
274 according to the then current guidelines of the Centers for Disease Control, transmit human
275 immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the
276 exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus
277 or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such
278 test results to the patient who was exposed.

279 C. For the purposes of this section, "health care provider" means any person, facility or agency
280 licensed or certified to provide care or treatment by the Department of Health, Department of Mental
281 Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative Services, or the
282 Department of Social Services, any person licensed or certified by a health regulatory board within the
283 Department of Health Professions except for the Boards of Funeral Directors and Embalmers and
284 Veterinary Medicine or any personal care agency contracting with the Department of Medical
285 Assistance Services.

286 D. "Health care provider," as defined in subsection C of this section, shall be deemed to include
287 any person who renders emergency care or assistance, without compensation and in good faith, at or
288 near the scene of an accident, fire, or any life-threatening emergency, or while en route therefrom to any
289 hospital, medical clinic or doctor's office during the period while rendering such emergency care or
290 assistance. The Department of Health shall provide appropriate counseling and opportunity for face-to-
291 face disclosure of any test results to any such person.

292 E. Whenever any law-enforcement officer is directly exposed to body fluids of a person in a
293 manner which may, according to the then current guidelines of the Centers for Disease Control, transmit
294 human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved
295 in the exposure shall be deemed to have consented to testing for infection with human
296 immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented
297 to the release of such test results to the law-enforcement officer who was exposed. In other than
298 emergency situations, it shall be the responsibility of the law-enforcement officer to inform the person of
299 this provision prior to the contact which creates a risk of such exposure.

300 F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer in a
301 manner which may, according to the then current guidelines of the Centers for Disease Control, transmit
302 human immunodeficiency virus or hepatitis B or C viruses, the law-enforcement officer whose body
303 fluids were involved in the exposure shall be deemed to have consented to testing for infection with
304 human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement officer shall also be
305 deemed to have consented to the release of such test results to the person.

306 G. For the purposes of this section, "law-enforcement officer" means a person who is both (i)
307 engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any
308 adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or
309 department under the direction and control of the Commonwealth or any local governing body that
310 employs persons who have law-enforcement authority.

311 H. Whenever any school board employee is directly exposed to body fluids of any person in a
312 manner which may, according to the then current guidelines of the Centers for Disease Control, transmit
313 human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved
314 in the exposure shall be deemed to have consented to testing for infection with human
315 immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented
316 to the release of such test results to the school board employee who was exposed. In other than
317 emergency situations, it shall be the responsibility of the school board employee to inform the person of
318 this provision prior to the contact that creates a risk of such exposure.

I. Whenever any person is directly exposed to the body fluids of a school board employee in a manner that may, according to the then current guidelines of the Centers for Disease Control, transmit human immunodeficiency virus or hepatitis B or C viruses, the school board employee whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The school board employee shall also be deemed to have consented to the release of such test results to the person.

J. For the purposes of this section, "school board employee" means a person who is both (i) acting in the course of employment at the time of such exposure and (ii) employed by any local school board in the Commonwealth.

K. For purposes of subsection H, if the person to be tested is a minor, consent for such testing shall be obtained from the parent, guardian, or person standing in loco parentis of such minor prior to initiating such testing. If the parent or guardian or person standing in loco parentis withholds such consent, the school board may petition the juvenile and domestic relations district court in the county or city where the minor resides for an order requiring such testing.

L. Except as provided in subsection K, if the person whose blood specimen is sought for testing refuses to provide such specimen, any person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition the general district court of the county or city in which the person whose specimen is sought resides or resided, or, in the case of a nonresident, the county or city where the health care provider, law-enforcement agency or school board has its principal office, for an order requiring the person to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section. At any hearing before the court, the person whose specimen is sought or his counsel may appear. The court shall be advised by the Commissioner or his designee prior to entering any testing order. If a testing order is issued, both the petitioner and the person from whom the blood specimen is sought shall receive counseling and opportunity for face-to-face disclosure of any test results by a licensed practitioner or trained counselor.

§ 38.2-324. Disclosure of property damage information.

Nothing in this title shall prohibit an insurer or its agent from disclosing information obtained from policyholders or other persons regarding claims or reports of property damage resulting from a natural disaster, as defined in clause (ii) of the definition of "disaster" in § 44-146.16, to the Director of the Department of Emergency Management or his designees or other state officials, to federal officials, or to local government officials of the locality where the damage occurred; provided that the disclosures (i) do not identify persons whose property is damaged or the address thereof and (ii) include only aggregated data that relates to the assessment of damage from a natural disaster, including, but not limited to, the number of claims, estimates of the dollar amount of damage, and types of damage, for a specified geographic area, such as a census tract or zip code area.

§ 44-146.16. Definitions.

As used in this chapter unless the context requires a different meaning:

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon. "Individual" shall include any companion animal. Further, whenever "person or persons" is used in Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1, it shall be deemed, when the context requires it, to include any individual;

"Disaster" means (i) any man-made disaster including any condition following an attack by any enemy or foreign nation upon the United States resulting in substantial damage of property or injury to persons in the United States and may be by use of bombs, missiles, shell fire, nuclear, radiological, chemical or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; also any industrial, nuclear or transportation accident, explosion, conflagration, power failure, resources shortage or other condition such as sabotage, oil spills and other injurious environmental contaminations that threaten or cause damage to property, human suffering, hardship or loss of life; and

(ii) any natural disaster including any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, communicable disease of public health threat or other natural catastrophe resulting in damage, hardship, suffering or possible loss of life;

"Discharge" means spillage, leakage, pumping, pouring, seepage, emitting, dumping, emptying, injecting, escaping, leaching, fire, explosion, or other releases;

"Emergency" means any occurrence, or threat thereof, whether natural or man-made, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or natural resources and may involve governmental action beyond that authorized or contemplated by existing law because governmental inaction for the period required to amend the law to meet the exigency would work immediate and irrevocable harm upon the citizens or the environment of the Commonwealth or some clearly defined portion or portions thereof;

"Emergency services" means the preparation for and the carrying out of functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from ~~natural or man-made~~ disasters, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. These functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, emergency resource management, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection. These functions also include the administration of approved state and federal disaster recovery and assistance programs;

"Hazard mitigation" means any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards;

"Hazardous substances" means all materials or substances which now or hereafter are designated, defined, or characterized as hazardous by law or regulation of the Commonwealth or regulation of the United States government;

"Interjurisdictional agency for emergency management" is any organization established between contiguous political subdivisions to facilitate the cooperation and protection of the subdivisions in the work of disaster prevention, preparedness, response, and recovery;

"Local emergency" means the condition declared by the local governing body when in its judgment the threat or actual occurrence of an emergency or disaster is or threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby; provided, however, that a local emergency arising wholly or substantially out of a resource shortage may be declared only by the Governor, upon petition of the local governing body, when he deems the threat or actual occurrence of such an emergency or disaster to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby; provided, however, nothing in this chapter shall be construed as prohibiting a local governing body from the prudent management of its water supply to prevent or manage a water shortage;

"Local emergency management organization" means an organization created in accordance with the provisions of this chapter by local authority to perform local emergency service functions;

"Major disaster" means any natural catastrophe, including any: hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm or drought, or regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the determination of the President of the United States is, or thereafter determined to be, of sufficient severity and magnitude to warrant major disaster assistance under the ~~Stafford~~ Stafford Act (P.L. ~~43-288~~ 93-288 as amended) to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby and is so declared by him;

~~"Man-made disaster" means any condition following an attack by any enemy or foreign nation upon the United States resulting in substantial damage of property or injury to persons in the United States and may be by use of bombs, missiles, shell fire, nuclear, radiological, chemical or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; also any~~

~~industrial, nuclear or transportation accident, explosion, conflagration, power failure, resources shortage or other condition such as sabotage, oil spills and other injurious environmental contaminations that threaten or cause damage to property, human suffering, hardship or loss of life;~~

~~"Natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire or other natural catastrophe resulting in damage, hardship, suffering or possible loss of life;~~

"Political subdivision" means any city or county in the Commonwealth and for the purposes of this chapter, the Town of Chincoteague and any town of more than 5,000 population that chooses to have an emergency management program separate from that of the county in which such town is located;

"Resource shortage" means the absence, unavailability or reduced supply of any raw or processed natural resource, or any commodities, goods or services of any kind that bear a substantial relationship to the health, safety, welfare and economic well-being of the citizens of the Commonwealth;

"State of emergency" means the condition declared by the Governor when in his judgment, the threat or actual occurrence of an emergency or a disaster in any part of the Commonwealth is of sufficient severity and magnitude to warrant disaster assistance by the Commonwealth to supplement the efforts and available resources of the several localities, and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby and is so declared by him.

§ 44-146.17. Powers and duties of Governor.

The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of ~~natural or man-~~ made disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in every case where the executive order declares that its violation shall have such force and effect.

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and emergencies, no rule, regulation, or order issued under this section shall have any effect beyond June 30 next following the next adjournment of the regular session of the General Assembly but the same or a similar rule, regulation, or order may thereafter be issued again if not contrary to law;

478 (2) To appoint a State Coordinator of Emergency Management and authorize the appointment or
479 employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove,
480 in his discretion, any and all persons serving hereunder;

481 (3) To procure supplies and equipment, to institute training and public information programs
482 relative to emergency management and to take other preparatory steps including the partial or full
483 mobilization of emergency management organizations in advance of actual disaster, to insure the
484 furnishing of adequately trained and equipped forces in time of need;

485 (4) To make such studies and surveys of industries, resources, and facilities in the
486 Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for
487 the most efficient emergency use thereof;

488 (5) On behalf of the Commonwealth enter into mutual aid arrangements with other states and to
489 coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of
490 emergency is declared in another state and the Governor receives a written request for assistance from
491 the executive authority of that state, the Governor may authorize the use in the other state of personnel,
492 equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent
493 of the chief executive officer or governing body of the political subdivision;

494 (6) To delegate any administrative authority vested in him under this chapter, and to provide for
495 the further delegation of any such authority, as needed;

496 (7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the
497 Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, he
498 may declare a state of emergency to exist;

499 (8) To request a major disaster declaration from the President, thereby certifying the need for
500 federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the
501 Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or
502 suffering resulting from the disaster;

503 (9) To provide incident command system guidelines for state agencies and local emergency
504 response organizations; and

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a ~~man-made or natural~~ disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, the Governor may direct the Comptroller of the Commonwealth to issue warrants not to exceed \$2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship.

§ 44-146.18:1. Virginia Disaster Response Funds disbursements; reimbursements.

There is hereby created a nonlapsing revolving fund which shall be maintained as a separate special fund account within the state treasury, and administered by the Coordinator of Emergency Management, consistent with the purposes of this chapter. All expenses, costs, and judgments recovered pursuant to this section, and all moneys received as reimbursement in accordance with applicable provisions of federal law, shall be paid into the fund. Additionally, an annual appropriation to the fund from the general fund or other unrestricted nongeneral fund, in an amount determined by the Governor, may be authorized to carry out the purposes of this chapter. All recoveries from occurrences prior to March 10, 1983, and otherwise qualifying under this section, received subsequent to March 10, 1983, shall be paid into the fund. No moneys shall be credited to the balance in the fund until they have been received by the fund. An accounting of moneys received and disbursed shall be kept and furnished to the Governor or the General Assembly upon request.

Disbursements from the fund may be made for the following purposes and no others:

1. For costs and expenses, including, but not limited to personnel, administrative, and equipment costs and expenses directly incurred by the Department of Emergency Management or by any other state agency or political subdivision or other entity, acting at the direction of the Coordinator of Emergency Management, in and for preventing or alleviating damage, loss, hardship, or suffering caused by emergencies, resource shortages, or ~~natural or man-made~~ disasters; and

2. For procurement, maintenance, and replenishment of materials, equipment, and supplies, in such quantities and at such location as the Coordinator of Emergency Management may deem necessary

to protect the public peace, health, and safety and to preserve the lives and property and economic well-being of the people of the Commonwealth; and

3. For costs and expenses incurred by the Department of Emergency Management or by any other state agency or political subdivision or other entity, acting at the direction of the Coordinator of Emergency Management, in the recovery from the effects of a disaster or in the restoration of public property or facilities.

The Coordinator of Emergency Management shall promptly seek reimbursement from any person causing or contributing to an emergency or disaster for all sums disbursed from the fund for the protection, relief and recovery from loss or damage caused by such person. In the event a request for reimbursement is not paid within ~~sixty~~ 60 days of receipt of a written demand, the claim shall be referred to the Attorney General for collection. The Coordinator of Emergency Management shall be allowed to recover all legal and court costs and other expenses incident to such actions for collection. The Coordinator is authorized to recover any sums incurred by any other state agency or political subdivision acting at the direction of the Coordinator as provided in this paragraph.

§ 44-146.23. Immunity from liability.

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

B. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, of emergency access or of other uses relating to emergency services shall, together with his successors in interest, if any, not be liable for negligently causing the death of, or injury to any person on or about such real estate or premises or for loss of or damage to the property of any person on or about such real estate or premises during such actual or impending disaster.

C. If any person holds a license, certificate, or other permit issued by any state, or political subdivision thereof, evidencing the meeting of qualifications for professional, mechanical, or other skills, the person, without compensation other than reimbursement for actual and necessary expenses, may ~~gratuitously~~ render aid involving that skill in the Commonwealth during a disaster, and such person shall not be liable for negligently causing the death of, or injury to, any person or for the loss of, or damage to, the property of any person resulting from such ~~gratuitous~~ service.

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

E. Notwithstanding any law to the contrary, no individual, partnership, corporation, association, or other legal entity shall be liable in civil damages as a result of acts taken voluntarily and without compensation in the course of rendering care, assistance, or advice with respect to an incident creating a danger to person, property, or the environment as a result of an actual or threatened discharge of a hazardous substance, or in preventing, cleaning up, treating, or disposing of or attempting to prevent, clean up, treat, or dispose of any such discharge, provided that such acts are taken under the direction of state or local authorities responding to the incident. This section shall not preclude liability for civil damages as a result of gross negligence, recklessness or willful misconduct. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be

entitled under this chapter, or under the Workers' Compensation Act (§ 65.2-100 et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress. The immunity provided by the provisions of this paragraph shall be in addition to, not in lieu of, any immunities provided by § 8.01-225.

§ 59.1-526. Definitions.

As used in this chapter:

"Disaster" means any "~~natural~~-disaster," "~~man-made~~-disaster," "emergency," or "major disaster," as those terms are used and defined in § 44-146.16, that results in the declaration of a state of emergency by the Governor or the President of the United States.

"Goods," "services," and "supplier" have the same meanings as are set forth for those terms in § 59.1-198.

"Necessary goods and services" means any necessary good or service for which consumer demand does, or is likely to, increase as a consequence of the disaster, and includes, but is not limited to, water, ice, consumer food items or supplies, property or services for emergency cleanup, emergency supplies, communication supplies and services, medical supplies and services, home heating fuel, building materials and services, tree removal supplies and services, freight, storage services, housing, lodging, transportation, and motor fuels.

"Time of disaster" means the shorter of (i) the period of time when a state of emergency declared by the Governor or the President of the United States as the result of a ~~natural~~ disaster, ~~manmade~~ disaster, emergency, or major disaster, as those terms are used and defined in § 44-146.16, is in effect or (ii) 30 days after the occurrence of the ~~natural~~ disaster, ~~manmade~~ disaster, emergency, or major disaster that resulted in the declaration of the state of emergency; however, if the state of emergency is extended or renewed within 30 days after such an occurrence, then such period shall be extended to include the 30 days following the date the state of emergency was extended or renewed.

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