

AMENDED IN SENATE JUNE 15, 2009

AMENDED IN SENATE MAY 6, 2009

AMENDED IN ASSEMBLY MARCH 5, 2009

AMENDED IN ASSEMBLY FEBRUARY 26, 2009

AMENDED IN ASSEMBLY FEBRUARY 5, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 83**

**Introduced by Assembly Member Feuer**

(Principal coauthor: Senator Benoit)

**(Coauthors: Assembly Members Anderson, Blakeslee, Brownley, Eng, Evans, Fletcher, Fuentes, Hill, Huffman, Jones, Knight, Lieu, Ma, Monning, Nielsen, John A. Perez, Tran, and Yamada)**

(Coauthors: Senators DeSaulnier and Harman)

December 23, 2008

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An act to amend Section 1799.102 of the Health and Safety Code, relating to personal liability, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 83, as amended, Feuer. Torts: personal liability immunity.

Existing law provides that any person who in good faith, and not for compensation, renders emergency medical care at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission.

This bill would instead provide that medical, law enforcement, and emergency personnel who in good faith, and not for compensation,

render emergency medical or nonmedical care at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission.

This bill would also provide that any person, not including medical, law enforcement, and emergency personnel, who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission, as long as that act or omission does not constitute gross negligence or willful or wanton misconduct.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1799.102 of the Health and Safety Code  
2 is amended to read:  
3 1799.102. (a) No person who in good faith, and not for  
4 compensation, renders emergency medical or nonmedical care at  
5 the scene of an emergency shall be liable for any civil damages  
6 resulting from any act or omission. The scene of an emergency  
7 shall not include emergency departments and other places where  
8 medical care is usually offered. This subdivision applies only to  
9 the medical, law enforcement, and emergency personnel specified  
10 in this chapter.  
11 (b) (1) It is the intent of the Legislature to encourage other  
12 individuals to volunteer, without compensation, to assist others in  
13 need during an emergency, while ensuring that those volunteers  
14 who provide care or assistance act responsibly.  
15 (2) Except for those persons specified in subdivision (a), no  
16 person who in good faith, and not for compensation, renders  
17 emergency medical or nonmedical care or assistance at the scene  
18 of an emergency shall be liable for civil damages resulting from  
19 any act or omission other than an act or omission constituting gross  
20 negligence or willful or wanton misconduct. The scene of an  
21 emergency shall not include emergency departments and other  
22 places where medical care is usually offered. This subdivision  
23 shall not be construed to alter existing protections from liability

1 for licensed medical or other personnel specified in subdivision  
2 (a) or any other law.

3 (c) Nothing in this section shall be construed to change any  
4 existing legal duties or obligations, nor does anything in this section  
5 in any way affect the provisions in Section 1714.5 of the Civil  
6 Code, as proposed to be amended by Senate Bill 39 of the 2009–10  
7 Regular Session of the Legislature. ~~The~~

8 (d) ~~The~~ amendments to this section made by the act adding ~~this~~  
9 ~~subdivision~~ subdivisions (b) and (c) shall apply exclusively to any  
10 legal action filed on or after the effective date of that act.

11 SEC. 2. This act is an urgency statute necessary for the  
12 immediate preservation of the public peace, health, or safety within  
13 the meaning of Article IV of the Constitution and shall go into  
14 immediate effect. The facts constituting the necessity are:

15 Because the state has long encouraged Californians to assist  
16 others facing danger in an emergency, and the ability to do so  
17 without fear of potential suit has been thrown into question by the  
18 recent California Supreme Court decision of *Van Horn v. Watson*,  
19 (2008) 45 Cal.4th 322, decided on December 18, 2008, this  
20 legislation clarifying the intent of the Legislature needs to go into  
21 effect immediately so as to avoid any confusion in this important  
22 area of the law.