

AMENDED IN ASSEMBLY JUNE 26, 2009

AMENDED IN SENATE MAY 13, 2009

AMENDED IN SENATE APRIL 27, 2009

AMENDED IN SENATE FEBRUARY 24, 2009

SENATE BILL

No. 39

Introduced by Senator Benoit

(Principal coauthor: Senator Romero)

(Principal coauthors: Assembly Members Feuer and Nestande)

(Coauthors: Senators Ashburn, Cogdill, Cox, Denham, Dutton, Harman, Hollingsworth, Huff, Maldonado, Runner, Strickland, Walters, and Wyland)

(Coauthors: Assembly Members Anderson, DeVore, Fuller, Gilmore, Hagman, Knight, Nielsen, Silva, and Yamada)

January 6, 2009

An act to amend Section 1714.5 of the Civil Code, relating to personal liability, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Benoit. Personal liability immunity: disaster service workers.

Existing law provides that no disaster worker who is performing disaster services during a state of war emergency, a state of emergency, or a local emergency shall be liable for civil damages on account of personal injury to or death of any person or property, as provided.

This bill would provide that disaster service workers shall not be liable when acting within the scope of their responsibilities under the authority of the governmental emergency organization, as provided.

This bill would provide that these provisions apply exclusively to any legal action filed on or after the effective date of this bill.

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 1714.5 of the Civil Code is amended to
 2 read:

3 1714.5. (a) There shall be no liability on the part of one,
 4 including the State of California, county, city and county, city or
 5 any other political subdivision of the State of California, who owns
 6 or maintains any building or premises which have been designated
 7 as a shelter from destructive operations or attacks by enemies of
 8 the United States by any disaster council or any public office,
 9 body, or officer of this state or of the United States, or which have
 10 been designated or are used as mass care centers, first aid stations,
 11 temporary hospital annexes, or as other necessary facilities for
 12 mitigating the effects of a natural, manmade, or war-caused
 13 emergency, for any injuries arising out of the use thereof for such
 14 purposes sustained by any person while in or upon said building
 15 or premises as a result of the condition of said building or premises
 16 or as a result of any act or omission, or in any way arising from
 17 the designation of such premises as a shelter, or the designation
 18 or use thereof as a mass care center, first aid station, temporary
 19 hospital annex, or other necessary facility for emergency purposes,
 20 except a willful act, of such owner or occupant or his or her
 21 servants, agents or employees when such person has entered or
 22 gone upon or into said building or premises for the purpose of
 23 seeking refuge, treatment, care, or assistance therein during
 24 destructive operations or attacks by enemies of the United States
 25 or during tests ordered by lawful authority or during a natural or
 26 manmade emergency.

27 (b) Notwithstanding any other provision of law, no disaster
 28 service worker who is performing disaster services during a state
 29 of war emergency, a state of emergency, or a local emergency, as
 30 such emergencies are defined in Section 8558 of the Government
 31 Code, shall be liable for civil damages on account of personal

1 injury to or death of any person or damage to property resulting
2 from any act or omission while performing disaster services
3 anywhere within ~~the~~ *any* jurisdiction covered by such emergency,
4 except one that is willful.

5 (c) For purposes of this subdivision, a disaster service worker
6 shall be performing disaster services when acting within the scope
7 of the disaster service worker’s responsibilities under the authority
8 of the governmental emergency organization.

9 (d) For purposes of this subdivision, “governmental emergency
10 organization” shall mean the emergency organization of any state,
11 city, city and county, county, district, or other local governmental
12 agency or public agency, which is authorized pursuant to the
13 California Emergency Services Act (Chapter 7 (commencing with
14 Section 8550) of Division 1 of Title 2 of the Government Code).

15 (e) Nothing in this section shall be construed to alter any existing
16 legal duties or obligations. The amendments to this section made
17 by the act amending this section shall apply exclusively to any
18 legal action filed on or after the effective date of the act.

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

23 Because the state has long encouraged Californians to assist
24 others facing danger in an emergency, and the ability to do so
25 without fear of potential suit has been thrown into question by the
26 recent California Supreme Court decision of *Van Horn v. Watson*,
27 (2008) 45 Cal.4th 322, decided on December 18, 2008, this
28 legislation clarifying the intent of the Legislature needs to go into
29 effect immediately so as to avoid any confusion in this important
30 area of the law.