

CHAPTER 604A

CIVIL LIABILITY LIMITATIONS

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GOOD SAMARITANS

604A.01 GOOD SAMARITAN LAW.

Subdivision 1. **Duty to assist.** A person at the scene of an emergency who knows that another person is exposed to or has suffered grave physical harm shall, to the extent that the person can do so without danger or peril to self or others, give reasonable assistance to the exposed person. Reasonable assistance may include obtaining or attempting to obtain aid from law enforcement or medical personnel. A person who violates this subdivision is guilty of a petty misdemeanor.

Subd. 2. **General immunity from liability.** (a) A person who, without compensation or the expectation of compensation, renders emergency care, advice, or assistance at the scene of an emergency or during transit to a location where professional medical care can be rendered, is not liable for any civil damages as a result of acts or omissions by that person in rendering the emergency care, advice, or assistance, unless the person acts in a willful and wanton or reckless manner in providing the care, advice, or assistance. This subdivision does not apply to a person rendering emergency care, advice, or assistance during the course of regular employment, and receiving compensation or expecting to receive compensation for rendering the care, advice, or assistance.

(b) For the purposes of this section, the scene of an emergency is an area outside the confines of a hospital or other institution that has hospital facilities, or an office of a person licensed to practice one or more of the healing arts under chapter 147, 147A, 148, 150A, or 153. The scene of an emergency includes areas threatened by or exposed to spillage, seepage, fire, explosion, or other release of hazardous materials, and includes ski areas and trails.

(c) For the purposes of this section, "person" includes a public or private nonprofit volunteer firefighter, volunteer police officer, volunteer ambulance attendant, volunteer first provider of emergency medical services, volunteer ski patroller, and any partnership, corporation, association, or other entity.

(d) For the purposes of this section, "compensation" does not include payments, reimbursement for expenses, or pension benefits paid to members of volunteer organizations.

(e) For purposes of this section, "emergency care" includes providing emergency medical care by using or providing an automatic external defibrillator, unless the person on whom the device is to be used objects; or unless the person is rendering this care during the course of regular employment, the person is receiving or expects to receive compensation for rendering this care, and the usual and regular duties of the

person include the provision of emergency medical care. "Automatic external defibrillator" means a medical device heart monitor and defibrillator that:

(1) has received approval of its premarket notification, filed pursuant to United States Code, title 21, section 360(k), from the United States Food and Drug Administration;

(2) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(3) upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

History: 1994 c 623 art 2 s 1; 1995 c 205 art 2 s 8; 1998 c 329 s 1; 2001 c 107 s 1

604A.015 SCHOOL BUS DRIVER IMMUNITY FROM LIABILITY.

A school bus driver who, while on duty, provides emergency care, advice, or assistance at the scene of an emergency or during transit to a location where professional medical care can be rendered, is not liable in ordinary negligence, for any civil damages as a result of acts or omissions to the person to whom assistance is rendered by the school bus driver in rendering the emergency care, advice, or assistance. For the purposes of this section, the scene of an emergency is an area outside the confines of a hospital or other institution that has hospital facilities, or an office of a person licensed to practice one or more of the healing arts under chapter 147, 148, 150A, or 153.

History: 1Sp1995 c 3 art 2 s 48

604A.02 AID TO SHOOTING VICTIM.

A person who is subject to the duty imposed by section 609.662, subdivision 3, who, without compensation or expectation of compensation, renders assistance to the injured person, is not liable for any civil damages as a result of acts or omissions by that person in rendering the assistance unless that person acts in a willful and wanton or reckless manner in rendering the assistance. This section does not apply to a person who renders the assistance during the course of regular employment and receives compensation or expects to receive compensation for rendering the assistance.

History: 1994 c 623 art 2 s 2

604A.03 MISCELLANEOUS GOOD SAMARITAN LAWS.

Certain persons who provide assistance at the scene of a hazardous materials response incident are not liable for damages to the extent provided in section 299A.51, subdivision 3.

History: 1994 c 623 art 2 s 3

VOLUNTEER AND CHARITABLE ACTIVITIES

604A.10 LIABILITY OF FOOD DONORS.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Distressed food" means, in addition to the definition in section 31.495, certain perishable foods, as defined in section 28A.03, that may not be readily marketable due to appearance, freshness, grade, surplus, or other considerations and are not suspect of having been rendered unsafe or unsuitable for food use and are adequately labeled.

(c) "Food bank" means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purpose of reducing hunger and meeting nutritional needs.

(d) "Food facility" means:

(1) a restaurant, food establishment, grocery store, delicatessen, convenience store, vehicle, vending machine, produce stand, temporary food facility, satellite food distribution facility, stationary mobile food preparation unit, or mobile food preparation unit;

(2) a place used in conjunction with the operations described in clause (1), including, but not limited to, storage facilities for food-related utensils, equipment, and materials; or

(3) a farmers' market.

(e) "Nonprofit charitable organization" means an organization that is incorporated under the Minnesota Nonprofit Corporation Act and is operating for charitable purposes.

Subd. 2. Donation; distressed food. A food manufacturer, distributor, processor, or a person who donates or collects distressed food to or for the state, a political subdivision, or an institution or facility operated by the state or a political subdivision for any lawful purpose or to or for a nonprofit charitable organization for distribution at no charge to the elderly or needy, or who directly distributes distressed food to the elderly or needy at no charge, is not liable for any injury, including but not limited to injury resulting from the ingesting of the distressed food, unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the food manufacturer, processor, distributor, or person.

Subd. 3. Distribution. A food bank or nonprofit charitable organization that in good faith collects or receives and distributes to the elderly or needy, at no charge, food that is fit for human consumption at the time it is distributed, is not liable for any injury, including but not limited to injury resulting from the ingesting of the food, unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the food bank or nonprofit charitable organization.

Subd. 4. Other food donation. A food facility that donates, to a food bank or other nonprofit charitable organization, food that is fit for human consumption at the time of donation and distributed by the food bank or nonprofit charitable organization to the elderly or needy at no charge, is not liable for any injury, including, but not limited to, liability resulting from ingestion of the food, unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the food facility.

Subd. 5. Authority not restricted. This section does not restrict the authority of the commissioner of agriculture to regulate or ban the use or consumption of distressed food donated, collected, or received for charitable purposes.

History: 1994 c 623 art 3 s 1; 1995 c 109 s 2; 1998 c 333 s 1

604A.11 VOLUNTEER ATHLETIC COACHES AND OFFICIALS; PHYSICIANS AND TRAINERS; IMMUNITY FROM LIABILITY.

Subdivision 1. Grant. (a) No individual who provides services or assistance without compensation as an athletic coach, manager, official, physician, or certified athletic trainer for a sports team that is organized or performing under a nonprofit charter or as a physician or certified athletic trainer for a sports team or athletic event sponsored by a public or private educational institution, and no community-based, voluntary nonprofit athletic association, or any volunteer of the nonprofit athletic association, is liable for money damages to a player, participant, or spectator as a result of an individual's acts or omissions in the providing of that service or assistance either at the scene of the event or, in the case of a physician or athletic trainer, while the player, participant, or spectator is being transported to a hospital, physician's office, or other medical facility.

(b) This section applies to organized sports competitions and practice and instruction in that sport.

(c) For purposes of this section, "compensation" does not include reimbursement for expenses.

Subd. 2. Limitation. Subdivision 1 does not apply:

(1) to the extent that the acts or omissions are covered under an insurance policy issued to the entity for whom the coach, manager, official, physician, or certified athletic trainer serves;

(2) if the individual acts in a willful and wanton or reckless manner in providing the services or assistance;

(3) if the acts or omissions arise out of the operation, maintenance, or use of a motor vehicle;

(4) to an athletic coach, manager, or official who provides services or assistance as part of a public or private educational institution's athletic program;

(5) to a public or private educational institution for which a physician or certified athletic trainer provides services; or

(6) if the individual acts in violation of federal, state, or local law.

The limitation in clause (1) constitutes a waiver of the defense of immunity to the extent of the liability stated in the policy, but has no effect on the liability of the individual beyond the coverage provided. The limitation in clause (5) does not affect the limitations on liability of a public educational institution under section 3.736 or chapter 466.

History: 1994 c 623 art 3 s 2

604A.12 LIVESTOCK ACTIVITIES; IMMUNITY FROM LIABILITY.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Inherent risks of livestock activities" means dangers or conditions that are an integral part of livestock activities, including:

(1) the propensity of livestock to behave in ways that may result in death or injury to persons on or around them, such as kicking, biting, or bucking;

(2) the unpredictability of livestock's reaction to things like sound, sudden movement, unfamiliar objects, persons, or other animals;

(3) natural hazards such as surface or subsurface conditions; or

(4) collisions with other livestock or objects.

(c) "Livestock" means cattle, sheep, swine, horses, ponies, donkeys, mules, hinnies, goats, buffalo, llamas, or poultry.

(d) "Livestock activity" means an activity involving the maintenance or use of livestock, regardless of whether the activity is open to the general public, provided the activity is not performed for profit. Livestock activity includes:

(1) livestock production;

(2) loading, unloading, or transporting livestock;

(3) livestock shows, fairs, competitions, performances, races, rodeos, or parades;

(4) livestock training or teaching activities;

(5) boarding, shoeing, or grooming livestock; or

(6) riding or inspecting livestock or livestock equipment.

(e) "Livestock activity sponsor" means a person who sponsors, organizes, or provides the facilities for a livestock activity that is open to the general public.

(f) "Participant" means a person who directly and intentionally engages in a livestock activity. Participant does not include a spectator who is in an authorized area.

Subd. 2. **Immunity from liability.** Except as provided in subdivision 3, a nonprofit corporation, association, or organization, or a person or other entity donating services, livestock, facilities, or equipment for the use of a nonprofit corporation, association, or organization, is not liable for the death of or an injury to a participant resulting from the inherent risks of livestock activities.

Subd. 3. **Exceptions.** Subdivision 2 does not apply if any of the following exist:

(1) the person provided livestock for the participant and failed to make reasonable efforts to determine the ability of the participant to safely engage in the livestock activity or to determine the ability of the participant to safely manage the particular livestock based on the participant's representations of the participant's ability;

(2) the person provided equipment or tack for the livestock and knew or should have known that it was faulty to the extent that it caused the injury or death;

(3) the person owns or leases the land upon which a participant was injured or died because of a human-made dangerous latent condition and failed to use reasonable care to protect the participant;

(4) the person is a livestock activity sponsor and fails to comply with the notice requirement of subdivision 4; or

(5) the act or omission of the person was willful or negligent.

Subd. 4. **Posting notice.** A livestock activity sponsor shall post plainly visible signs at one or more prominent locations in the premises where the livestock activity takes place that include a warning of the inherent risks of livestock activity and the limitation of liability under this section.

History: 1994 c 623 art 3 s 3

604A.13 MISCELLANEOUS VOLUNTEER AND CHARITABLE ACTIVITIES.

An individual and an individual's estate are not liable for an anatomical gift as provided in section 525.9221, paragraph (d).

History: 1994 c 623 art 3 s 4

PUBLIC BENEFIT OR FUNCTION ACTIVITIES

604A.20 POLICY.

It is the policy of this state, in furtherance of the public health and welfare, to encourage and promote the use of land owned by a municipal power agency and privately owned lands and waters by the public for beneficial recreational purposes, and the provisions of sections 604A.20 to 604A.27 are enacted to that end.

History: 1994 c 623 art 4 s 1; 1999 c 183 s 1

604A.21 RECREATIONAL LAND USE; DEFINITIONS.

Subdivision 1. **General.** For the purposes of sections 604A.20 to 604A.27, the terms defined in this section have the meanings given them, except where the context clearly indicates otherwise.

Subd. 2. **Charge.** "Charge" means any admission price asked or charged for services, entertainment, recreational use, or other activity or the offering of products for sale to the recreational user by a commercial for profit enterprise directly related to the use of the land.

Subd. 2a. **Dedicated.** "Dedicated" means made available by easement, license, permit, or other authorization.

Subd. 3. **Land.** "Land" means any of the following which is privately owned or leased or in which a municipal power agency has rights: land, easements, rights-of-way, roads, water, watercourses, private ways and buildings, structures, and other improvements to land, and machinery or equipment when attached to land.

Subd. 4. **Owner.** "Owner" means the possessor of a fee interest or a life estate, tenant, lessee, occupant, holder of a utility easement, or person in control of the land.

Subd. 5. **Recreational purpose.** "Recreational purpose" includes, but is not limited to, hunting; trapping; fishing; swimming; boating; camping; picnicking; hiking; bicycling; horseback riding; firewood gathering; pleasure driving, including snowmobiling and the operation of any motorized vehicle or conveyance upon a road or upon or across land in any manner, including recreational trail use; nature study; water skiing; winter sports; and viewing or enjoying historical, archaeological, scenic, or scientific sites.

Subd. 6. **Recreational trail use.** "Recreational trail use" means use on or about a trail, including but not limited to, hunting, trapping, fishing, hiking, bicycling, skiing, horseback riding, snowmobile riding, and motorized trail riding.

History: 1994 c 623 art 4 s 2; 1999 c 183 s 2-4

604A.22 OWNER'S DUTY OF CARE OR DUTY TO GIVE WARNINGS.

Except as provided in section 604A.25, an owner who gives written or oral permission for the use of the land for recreational purposes without charge:

- (1) owes no duty of care to render or maintain the land safe for entry or use by other persons for recreational purpose;
- (2) owes no duty to warn those persons of any dangerous condition on the land, whether patent or latent;
- (3) owes no duty of care toward those persons except to refrain from willfully taking action to cause injury; and
- (4) owes no duty to curtail use of the land during its use for recreational purpose.

History: 1994 c 623 art 4 s 3

604A.23 OWNER'S LIABILITY.

An owner who gives written or oral permission for the use of the land for recreational purposes without charge does not by that action:

- (1) extend any assurance that the land is safe for any purpose;
- (2) confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed; or
- (3) assume responsibility for or incur liability for any injury to the person or property caused by an act or omission of the person.

History: 1994 c 623 art 4 s 4

604A.24 LIABILITY; LEASED LAND, WATER-FILLED MINE PITS; MUNICIPAL POWER AGENCY LAND.

Unless otherwise agreed in writing, sections 604A.22 and 604A.23 also apply to the duties and liability of an owner of the following land:

- (1) land leased to the state or any political subdivision for recreational purpose; or
- (2) idled or abandoned, water-filled mine pits whose pit walls may slump or cave, and to which water the public has access from a water access site operated by a public entity; or
- (3) land of which a municipal power agency is an owner and that is used for recreational trail purposes, and other land of a municipal power agency which is within 300 feet of such land if the entry onto such land was from land that is dedicated for recreational purposes or recreational trail use.

History: 1994 c 623 art 4 s 5; 1999 c 183 s 5

604A.25 OWNER'S LIABILITY; NOT LIMITED.

Except as set forth in this section, nothing in sections 604A.20 to 604A.27 limits liability that otherwise exists:

- (1) for conduct which, at law, entitles a trespasser to maintain an action and obtain relief for the conduct complained of; or
- (2) for injury suffered in any case where the owner charges the persons who enter or go on the land for the recreational purpose, except that in the case of land leased or dedicated to the state or a political subdivision, any consideration received from the state or political subdivision by the owner for the lease or dedication is not considered a charge within the meaning of this section.

Except for conduct set forth in section 604A.22, clause (3), a person may not maintain an action and obtain relief at law for conduct referred to by clause (1) in this section if the entry upon the land is incidental to or arises from access granted for the recreational trail use of land dedicated, leased, or permitted by the owners for recreational trail use.

History: 1994 c 623 art 4 s 6; 1999 c 183 s 6

604A.26 LAND USER'S LIABILITY.

Nothing in sections 604A.20 to 604A.27 relieves any person using the land of another for recreational purpose from any obligation that the person may have in the absence of sections 604A.20 to 604A.27 to exercise care in use of the land and in the person's activities on the land, or from the legal consequences of failure to employ that care.

History: 1994 c 623 art 4 s 7

604A.27 DEDICATION; EASEMENT.

No dedication of any land in connection with any use by any person for a recreational purpose takes effect in consequence of the exercise of that use for any length of time except as expressly permitted or provided in writing by the owner, nor shall the grant of permission for the use by the owner grant to any person an easement or other property right in the land except as expressly provided in writing by the owner.

History: 1994 c 623 art 4 s 8

OTHER ACTIVITIES**604A.30 BREATH ALCOHOL TESTING DEVICE IN LIQUOR ESTABLISHMENTS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Breath alcohol testing device" means a device that tests for alcohol concentration by using a breath sample.

(c) "Licensed premises" has the meaning given in section 340A.101, subdivision 15.

(d) "Liquor licensee" means a person licensed under sections 340A.403 to 340A.407 or 340A.414, and includes an agent or employee of a licensee.

Subd. 2. **Immunity from liability.** (a) Subject to subdivision 3, a liquor licensee who administers or makes available a breath alcohol testing device in the licensed premises is immune from any liability arising out of the result of the test.

(b) Subject to subdivision 3, a designer, manufacturer, distributor, or seller of a breath alcohol testing device is immune from any products liability or other cause of action arising out of the result of a test by the breath alcohol testing device in a licensed premises.

Subd. 3. **Immunity requirements.** Subdivision 2 applies only if:

(1) a conspicuous notice is posted in the licensed premises:

(i) informing patrons of the immunity provisions of subdivision 2 and notifying them that the test is made available solely for their own informal use and information; and

(ii) informing patrons of the alcohol-related driving penalties under chapter 169A and section 609.21;

(2) the type of breath alcohol testing device is certified by the commissioner of public safety under subdivision 7; and

(3) the breath alcohol testing device test results are indicated as follows:

(i) the breath alcohol testing device shows a white light and gives a reading of alcohol concentration if alcohol concentration is less than .05;

(ii) the breath alcohol testing device shows a yellow light and gives a reading of alcohol concentration if alcohol concentration is .05 or more but less than .08;

(iii) the breath alcohol testing device shows an orange light and gives a reading of alcohol concentration if alcohol concentration is .08 or more but less than .10, and displays a message that states "You are close to the legal limit and your driving may be impaired"; or

(iv) the breath alcohol testing device shows a red light if alcohol concentration is .10 or greater but does not give a reading of alcohol concentration, and displays a message that states that the person fails the test.

Subd. 4. **Evidence.** Evidence regarding the result of a test by a breath alcohol testing device in a licensed premises is not admissible in any civil or criminal proceeding.

Subd. 5. **Dramshop.** This section does not affect liability under section 340A.801.

Subd. 6. **Preparation of notice.** The commissioner of public safety shall prepare and make available to liquor licensees the notices described in subdivision 3.

Subd. 7. **Rules; certification.** The commissioner of public safety shall adopt any rules reasonably required to implement this section, including performance and maintenance standards for breath alcohol testing devices. The commissioner shall certify breath alcohol testing devices that meet the performance standards. The costs of rulemaking and certification must be borne by the manufacturers of the breath alcohol testing devices.

History: 1994 c 623 art 4 s 9; 2000 c 478 art 2 s 7

604A.301 LIMITED LIABILITY FOR CERTAIN NONPROFIT TREATMENT FACILITIES.

Subdivision 1. **Limit on amount of liability.** A treatment facility organized as a nonprofit corporation under chapter 317A that accepts individuals for treatment under a court order or an order of the commissioner of corrections as part of an adult or juvenile corrections program is subject to the same liability limits provided for state agencies under section 3.736, subdivision 4, with respect to claims against the facility arising out of the treatment of those individuals or the activities of those individuals while in the care of the program, if the treatment facility procures insurance against liability for claims described under this section, which insurance is in an amount equal to the greater of \$500,000 per claim or occurrence or the amounts specified for the state under section 3.736, subdivision 4. This section does not apply if the conduct of a facility was intentional or grossly negligent.

Subd. 2. **Effect of excess liability insurance.** Notwithstanding subdivision 1, if a treatment facility has insurance coverage in excess of the liability limits under section 3.736, subdivision 4, the procurement of that insurance constitutes a waiver of those limits but only to the extent that valid and collectible insurance exceeds those limits and covers a claim. The purchase of excess insurance has no other effect on the liability of the treatment facility.

History: 1998 c 336 s 1

604A.31 MISCELLANEOUS PUBLIC BENEFIT OR FUNCTION.

Subdivision 1. **Nursing home receivers.** Certain nursing home receivers are immune from personal liability as provided in section 144A.15, subdivision 4.

Subd. 2. **Health care review organizations.** Certain persons involved in health care review organization activities are immune from liability as provided in section 145.63.

Subd. 3. **Background checks.** (a) Certain persons who issue certificates in conjunction with gun permit background checks are immune from liability as provided in section 624.713, subdivision 1.

(b) Employers who provide information in conjunction with background investigations of applicants for employment with a law enforcement agency are immune from civil liability as provided in section 626.87, subdivision 4.

Subd. 4. **Firefighter and peace officer investigations.** Employers who provide information in conjunction with employment investigations of applicants for fire protection service positions or peace officer positions are immune from civil liability as provided in section 299F.036, subdivision 4, or 626.87.

History: 1994 c 623 art 4 s 10; 1997 c 214 s 3; 1999 c 197 s 2

604A.32 ALTERNATIVE DISPUTE RESOLUTION IMMUNITY.

A person presiding at an alternative dispute resolution proceeding is not subject to civil liability for the person's conduct in presiding over the proceeding, except for injury caused by malice, bad faith, or reckless conduct. This section does not restrict or affect immunity from liability that may be available under other law.

History: 1997 c 29 s 1

604A.33 REFERENCE CHECKS BY CERTAIN HEALTH CARE PROVIDERS AND FACILITIES.

Subdivision 1. **Application.** This section applies to residential treatment programs for children or group homes for children licensed under chapter 245A, residential services and programs for juveniles licensed under section 241.021, providers licensed pursuant to sections 144A.01 to 144A.33 or sections 144A.43 to 144A.48, personal care provider organizations under section 256B.0627, subdivision 1, paragraph (j), providers of day training and habilitation services under sections 252.40 to 252.46, board and lodging facilities licensed under chapter 157, intermediate care facilities for persons with mental retardation or related conditions, and other facilities licensed to provide residential services to persons with developmental disabilities.

Subd. 2. **Causes of action.** (a) No action may be brought against a provider or facility listed in subdivision 1 or a designated employee or agent of the provider or facility who discloses information regarding a former or current employee to a prospective employer as provided under this section. This subdivision does not preclude a charge or action under chapter 363, or an action arising from a disclosure that is proved, by a preponderance of the evidence, was made fraudulently or with deliberate disregard as to its truth or falsity.

(b) This subdivision does not preclude an action against a prospective employer for disclosing information received under this section.

Subd. 3. **Reference checks.** (a) Upon written request, a provider or facility listed in subdivision 1 or a designated employee or agent of the provider or facility may disclose in writing the following information about a current or former employee to a prospective employer:

- (1) dates of employment;
- (2) compensation and wage history;
- (3) job description and duties;
- (4) training and education provided by the employer; and

(5) all acts of violence, theft, harassment, or illegal conduct by the employee documented in the personnel record which resulted in disciplinary action or resignation, and the employee's written response, if necessary, contained in the personnel record.

(b) With the written authorization of the current or former employee, a provider or facility listed in subdivision 1 or a designated employee or agent of the provider or facility may also disclose the following information in writing to a prospective employer:

(1) written employee evaluations conducted prior to the employee's separation from the employer and the employee's written response, if any, contained in the employee's personnel record;

(2) disciplinary warnings and actions in the five years before the date of the authorization and the employee's written response, if any, contained in the employee's personnel record; and

(3) reasons for separation from employment.

(c) The provider, facility, designated employee, or agent must provide a written copy of a disclosure made under this subdivision and information on to whom the disclosure was made to the current or former employee upon request.

History: 2002 c 396 s 4