

## CHAPTER 604A

### CIVIL LIABILITY LIMITATIONS

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**604A.001** MS 2006 [Renumbered 15.001]

#### 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 HAZARDOUS MATERIALS RESPONSE INCIDENT AID.**

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

**604A.04 GOOD SAMARITAN OVERDOSE PREVENTION.**

Subdivision 1. **Definitions; opiate antagonist.** For purposes of this section, "opiate antagonist" means naloxone hydrochloride or any similarly acting drug approved by the federal Food and Drug Administration for the treatment of a drug overdose.

Subd. 2. **Authority to possess and administer opiate antagonists; release from liability.** (a) A person who is not a health care professional may possess or administer an opiate antagonist that is prescribed, dispensed, or distributed by a licensed health care professional pursuant to subdivision 3.

(b) A person who is not a health care professional who acts in good faith in administering an opiate antagonist to another person whom the person believes in good faith to be suffering a drug overdose is immune from criminal prosecution for the act and is not liable for any civil damages for acts or omissions resulting from the act.

Subd. 3. **Health care professionals; release from liability.** A licensed health care professional who is permitted by law to prescribe an opiate antagonist, if acting in good faith, may directly or by standing order prescribe, dispense, distribute, or administer an opiate antagonist to a person without being subject to civil liability or criminal prosecution for the act. This immunity applies even when the opiate antagonist is eventually administered in either or both of the following instances: (1) by someone other than the person to whom it is prescribed; or (2) to someone other than the person to whom it is prescribed.

**History:** 2014 c 232 s 3

**604A.05 GOOD SAMARITAN OVERDOSE MEDICAL ASSISTANCE.**

Subdivision 1. **Person seeking medical assistance; immunity from prosecution.** A person acting in good faith who seeks medical assistance for another person who is experiencing a drug-related overdose may not be charged or prosecuted for the possession, sharing, or use of a controlled substance under section 152.023, subdivision 2, clauses (4) and (6), 152.024, or 152.025, or possession of drug paraphernalia. A person qualifies for the immunities provided in this subdivision only if:

(1) the evidence for the charge or prosecution was obtained as a result of the person's seeking medical assistance for another person; and

(2) the person seeks medical assistance for another person who is in need of medical assistance for an immediate health or safety concern, provided that the person who seeks the medical assistance is the first person to seek the assistance, provides a name and contact information, remains on the scene until assistance arrives or is provided, and cooperates with the authorities.

Good faith does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.

Subd. 2. **Person experiencing an overdose; immunity from prosecution.** A person who experiences a drug-related overdose and is in need of medical assistance may not be charged or prosecuted for possession of a controlled substance under section 152.023, subdivision 2, clauses (4) and (6), 152.024, or 152.025, or

possession of drug paraphernalia. A person qualifies for the immunities provided in this subdivision only if the evidence for the charge or prosecution was obtained as a result of the drug-related overdose and the need for medical assistance.

Subd. 3. **Persons on probation or release.** A person's pretrial release, probation, furlough, supervised release, or parole shall not be revoked based on an incident for which the person would be immune from prosecution under subdivision 1 or 2.

Subd. 4. **Effect on other criminal prosecutions.** (a) The act of providing first aid or other medical assistance to someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution for which immunity is not provided.

(b) Nothing in this section shall:

(1) be construed to bar the admissibility of any evidence obtained in connection with the investigation and prosecution of other crimes or violations committed by a person who otherwise qualifies for limited immunity under this section;

(2) preclude prosecution of a person on the basis of evidence obtained from an independent source;

(3) be construed to limit, modify, or remove any immunity from liability currently available to public entities, public employees by law, or prosecutors; or

(4) prevent probation officers from conducting drug testing of persons on pretrial release, probation, furlough, supervised release, or parole.

Subd. 5. **Drug-related overdose defined.** As used in this section, "drug-related overdose" means an acute condition, including mania, hysteria, extreme physical illness, or coma, resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires immediate medical assistance.

**History:** 2014 c 232 s 4

## 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, bucking, or charging;

(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, and, except in the case of livestock grazing under clause (7), 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;

(6) riding or inspecting livestock or livestock equipment; or

(7) the use of state property for livestock grazing, pursuant to an agreement with the commissioner of natural resources.

(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; livestock events.** 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; livestock events.** 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. 3a. **Immunity from liability; grazing on public lands.** (a) Any person or entity grazing livestock on state lands under an agreement with the commissioner of natural resources is not liable for damage to property or the death of or an injury to a person due to the inherent risks of livestock activities.

(b) This subdivision does not apply if the person or entity grazing the livestock:

(1) fails to exercise reasonable care in using the land for grazing or in managing the livestock; or

(2) maintains a condition in material violation of an agreement with the commissioner of natural resources for use of the land, and the condition contributed to the damage, death, or injury.

Subd. 4. **Posting notice.** (a) 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.

(b) The commissioner of natural resources shall post plainly visible signs at one or more prominent locations on any state property being used for grazing purposes pursuant to an agreement with the

commissioner. The signs shall include a warning of the inherent risks of livestock activity, and the limitations of liability provided in this section and any other applicable law.

**History:** *1994 c 623 art 3 s 3; 1Sp2011 c 2 art 5 s 65*

#### **604A.13 MISCELLANEOUS VOLUNTEER AND CHARITABLE ACTIVITIES.**

A person who acts in accordance with chapter 525A or the applicable anatomical gift law of another state or who attempts in good faith to do so, is immune from liability as provided in section 525A.18.

**History:** *1994 c 623 art 3 s 4; 2007 c 120 art 2 s 3,5*

### **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; rock climbing; cave exploring; 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; noncommercial aviation activities; and viewing or enjoying historical, archaeological, scenic, or scientific sites. "Rock climbing" means the climbing of a naturally exposed rock face. "Cave exploring" means the planned exploration of naturally occurring cavities in rock, including passage through any structures placed for the purpose of safe access, access control, or conservation, but does not include the exploration of other man-made cavities such as tunnels, mines, and sewers. "Noncommercial aviation activities" means the use of private, nonstaffed airstrips for takeoffs and landings



related to other recreational purposes under this subdivision that are not commercial operations under section 360.013, subdivision 45.

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; 2005 c 148 s 1; 2012 c 277 art 1 s 81

#### **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;

(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; or

(4) land leased to the state or otherwise subject to an agreement or contract for purposes of a state-sponsored walk-in access program.

**History:** *1994 c 623 art 4 s 5; 1999 c 183 s 5; 1Sp2011 c 2 art 5 s 66*

#### **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 sections 609.2112, 609.2113, and 609.2114;

(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; 2014 c 180 s 9

**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. 2a. **Prescriptions for released persons.** A physician, physician assistant, certified nurse practitioner, or clinical nurse specialist in psychiatric and mental health nursing who prescribes drugs for a prisoner or committed person is immune from liability for conduct of that person related to the use or nonuse of medicine as provided in section 147.231.

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; 2006 c 266 s 3; 2014 c 291 art 4 s 58

**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.47, personal care provider organizations under section 256B.0659, providers of day training and habilitation services under sections 252.41 to 252.46, board and lodging facilities licensed under chapter 157, intermediate care facilities for persons with developmental disabilities, 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 363A, 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; 2005 c 56 s 1; 2006 c 212 art 3 s 39; 2009 c 79 art 6 s 18; 2014 c 275 art 1 s 128

**604A.34** [Repealed, 2015 c 49 s 4]

#### **604A.35 PUBLIC NOTIFICATION OF EMERGENCY.**

(a) A person who notifies the public of an emergency via a medium of mass communications including, without limitation, radio, television, cable television, or Internet, is not liable for civil damages resulting from acts or omissions by that person in making the notification, unless the person acts in bad faith or recklessly in providing the notification.

(b) For purposes of this section, notifying the public of an emergency includes a notification made through the Emergency Alert System, a notification made through the Amber Alert System, or a notification requested by a government entity.

**History:** 2003 c 65 s 1

#### **604A.40 AGRITOURISM; IMMUNITY FROM LIABILITY.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in paragraphs (b) to (g) have the meanings given them.

(b) "Agricultural products" means livestock, aquacultural, poultry, horticultural, floricultural, viticultural, silvicultural, or other products of a farm or ranch.

(c) "Agritourism activity" means activity carried out on a farm or ranch that allows organizations or members of the general public, for recreational, entertainment, charitable, or educational purposes, to view, enjoy, or participate in rural activities, including, but not limited to: farming; viticulture; winemaking; ranching; and historical, cultural, farm stay, gleaning, harvest-your-own, or natural activities and attractions. An activity is an agritourism activity whether or not the participant pays to participate in the activity.

(d) "Agritourism professional" means a person who is engaged in providing one or more agritourism activities, whether or not for compensation.

(e) "Farm or ranch" means one or more areas of land used for the production, cultivation, growing, harvesting, or processing of agricultural products.

(f) "Inherent risks of agritourism activity" means dangers or conditions that are an integral part of an agritourism activity including but not limited to:

(1) natural hazards and conditions of land, vegetation, and waters including surface and subsurface conditions;

(2) the behavior of wild or domestic animals; and

(3) ordinary dangers of structures or equipment ordinarily used in farming or ranching operations.

(g) "Participant" means a person, other than an agritourism professional, who engages in an agritourism activity and who has the capacity to understand the inherent risks of agricultural tourism.

Subd. 2. **Liability limited.** (a) Except as provided in paragraphs (b) and (c), an agritourism professional is not liable for injury, damage, or death of a participant resulting from the inherent risks of agritourism activities.

(b) Nothing in paragraph (a) prevents or limits the liability of an agritourism professional if the agritourism professional:

(1) commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death of the participant;

(2) has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the activity, or the dangerous propensity of a particular animal used in such activity;

(3) intentionally injures the participant; or

(4) fails to comply with the notice requirement of subdivision 3.

(c) Nothing in paragraph (a) affects a claim under chapter 340A, or a claim arising out of the sale or use of alcohol at an agritourism facility.

Subd. 3. **Posting notice.** An agritourism professional shall post plainly visible signs at one or more prominent locations in the premises where the agritourism activity takes place that include a warning of the inherent risks of agritourism activity.

**History:** 2015 c 44 s 36