

CHAPTER 604A

TORT LIABILITY; GOOD SAMARITANS; CHARITABLE AND PUBLIC BENEFIT ACTIVITIES

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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, 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.

History: 1994 c 623 art 2 s 1

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, 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 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

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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

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 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

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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. 3. **Land.** "Land" means privately owned or leased land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the land.

Subd. 4. **Owner.** "Owner" means the possessor of a fee interest or a life estate, tenant, lessee, occupant, 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

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.

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.

History: 1994 c 623 art 4 s 5

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

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 to the state or a political subdivision, any consideration received from the state or political subdivision by the owner for the lease 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) 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

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

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:

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(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 sections 169.121 to 169.123, 169.129, and 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 rule-making and certification must be borne by the manufacturers of the breath alcohol testing devices.

History: 1994 c 623 art 4 s 9

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

History: 1994 c 623 art 4 s 10