

ENGROSSED SENATE

BILL NO. 507 By: Branen and Laughlin of
the Senate

and

Thompson of the House

[torts - volunteer liability – firearms – codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 76 O.S. 2001, Section 31, is amended to read as follows:

Section 31. A. Any volunteer shall be immune from liability in a civil action on the basis of any act or omission of the volunteer resulting in damage or injury if:

1. The volunteer was acting in good faith and within the scope of the volunteer's official functions and duties for a charitable organization or not-for-profit corporation; and

2. The damage or injury was not caused by gross negligence or willful and wanton misconduct by the volunteer.

B. In any civil action against a charitable organization or not-for-profit corporation for damages based upon the conduct of a volunteer, the doctrine of respondeat superior shall apply, notwithstanding the immunity granted to the volunteer in subsection A of this section.

C. Any person who, in good faith and without compensation, or expectation of compensation, donates or loans emergency service equipment to a volunteer shall not be liable for damages resulting from the use of such equipment by the volunteer, except when the donor of the equipment knew or should have known that the equipment was dangerous or faulty in a way which could result in bodily injury, death or damage to property.

D. Definitions.

1. For the purposes of this section, the term "volunteer" means a person who enters into a service or undertaking of the person's free will without compensation or expectation of compensation in money or other thing of value in order to provide a service, care, assistance, advice, or other benefit where the person does not offer that type of service, care, assistance, advice or other benefit for sale to the public.

2. For the purposes of this section, the term "charitable organization" means any benevolent, philanthropic, patriotic, eleemosynary, educational, social, civic, recreational, religious group or association or any other person performing or purporting to perform acts beneficial to the public.

3. For the purposes of this section, the term "not-for-profit corporation" means a corporation formed for a purpose not involving pecuniary gain to its shareholders or members, paying no dividends or other pecuniary remuneration, directly or indirectly, to its shareholders or members as such, and having no capital stock.

E. The provisions of this section shall not affect the liability that any person may have which arises from the operation of a motor vehicle, watercraft, or aircraft in rendering the service, care, assistance, advice or other benefit as a volunteer; however, the provisions of this section shall apply to a volunteer who, in the course of his or her duties for the charitable organization or not-for-profit corporation, operates such vehicles to provide transportation services.

F. The immunity from civil liability provided for by this section shall extend only to the actions taken by a person rendering the service, care, assistance, advice, or other benefit as a volunteer, and does not confer any immunity to any person for actions taken by the volunteer prior to or after the rendering of the service, care, assistance, advice, or other benefit as a volunteer.

G. This section shall apply to all civil actions filed after the effective date of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41 of Title 76, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that the unlawful use of firearms, rather than their lawful manufacture, distribution, or sale, is the proximate cause of any injury arising from their unlawful use.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 42 of Title 76, unless there is created a duplication in numbering, reads as follows:

No firearm manufacturer, distributor, or seller who lawfully manufactures, distributes, or sells a firearm is liable to any person or entity, or to the estate, successors, or survivors of either, for any injury suffered, including wrongful death and property damage, because of use of such firearm by another.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43 of Title 76, unless there is created a duplication in numbering, reads as follows:

No association of person who hold licenses under Section 923 of Chapter 44 of Title 18, United States Code, as in effect on January 1, 1999, is liable to any person or entity, or to the estate, successors or survivors of either, for any injury suffered, including wrongful death and property damage, because of the use of a firearm sold or manufactured by any licensee who is a member of such association.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 44 of Title 76, unless there is created a duplication in numbering, reads as follows:

The provisions of Sections 41 through 44 of Title 76 of the Oklahoma Statutes, inclusive, do not apply to actions for deceit, breach of contract, or expressed or implied warranties, or for injuries resulting from failure of firearms to operate in a normal or usual manner due to defects or negligence in design or manufacture. The provisions of Sections 41 through 44 of Title 76 of the Oklahoma Statutes, inclusive, do not apply to actions arising from the unlawful sale or transfer of firearms, or to instances where the transferor knew, or should have known, that the recipient would engage in the unlawful sale or transfer of the firearm, or would use, or purposely allow the use of, the firearm in an unlawful, negligent, or improper fashion. For purposes of this section, the potential of a firearm to cause serious injury, damage, or death as a result of normal function does not constitute a defective condition of the product. A firearm may not be deemed

defective on the basis of its potential to cause serious injury, damage, or death when discharged.

SECTION 6. This act shall become effective November 1, 2007.

Passed the Senate the 13th day of March, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2007.

Presiding Officer of the House

of Representatives