

By: Guillen

H.B. No. 3277

A BILL TO BE ENTITLED

1 AN ACT

2 relating to limiting the liability of volunteer fire departments
3 and volunteer fire fighters.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. FINDINGS AND PURPOSE. (a) The legislature finds
6 that:

7 (1) 80 percent of the area of this state is currently
8 protected by volunteer fire departments;

9 (2) concern regarding personal liability arising out
10 of services rendered by volunteer fire fighters on behalf of
11 volunteer fire departments deters individuals from offering their
12 services as volunteer fire fighters;

13 (3) the diminishing number of volunteer fire fighters
14 leads to increased costs and less service to areas of this state
15 that are served by volunteer fire departments; and

16 (4) it is in the public interest of the citizens of
17 this state to encourage the continued level of service provided by
18 volunteer fire departments.

19 (b) The purpose of this Act is to reduce the exposure to
20 liability of:

21 (1) a volunteer fire department while involved in or
22 providing an emergency response; and

23 (2) a volunteer fire fighter while acting as a member
24 of a volunteer fire department.

1 SECTION 2. AMENDMENT. Chapter 78, Civil Practice and
2 Remedies Code, is amended by adding Subchapter C to read as follows:

3 SUBCHAPTER C. FIRE-FIGHTING SERVICES

4 Sec. 78.101. DEFINITIONS. In this subchapter:

5 (1) "Emergency response" means a response involving
6 fire protection or prevention, rescue, emergency medical, or
7 hazardous material response services.

8 (2) "Volunteer fire department" means a nonprofit
9 organization that is:

10 (A) operated by its members;

11 (B) exempt from the state sales tax under Section
12 151.310, Tax Code, or the state franchise tax under Section
13 171.083, Tax Code; and

14 (C) organized to provide an emergency response.

15 (3) "Volunteer fire fighter" means a member of a
16 volunteer fire department.

17 Sec. 78.102. APPLICABILITY OF SUBCHAPTER: EMERGENCY
18 RESPONSE. This subchapter applies only to damages for personal
19 injury, death, or property damage, other than property damage to
20 which Subchapter A applies, arising from an error or omission of:

21 (1) a volunteer fire department while involved in or
22 providing an emergency response; or

23 (2) a volunteer fire fighter while involved in or
24 providing an emergency response as a member of a volunteer fire
25 department.

26 Sec. 78.103. LIABILITY OF VOLUNTEER FIRE DEPARTMENT. A
27 volunteer fire department is:

1 (1) liable for damages described by Section 78.102
2 only to the extent that a county providing the same or similar
3 services would be liable under Chapter 101; and

4 (2) entitled to the exclusions, exceptions, and
5 defenses applicable to a county under Chapter 101 and other
6 statutory or common law.

7 Sec. 78.104. LIABILITY OF VOLUNTEER FIRE FIGHTER. A
8 volunteer fire fighter is:

9 (1) liable for damages described by Section 78.102
10 only to the extent that an employee providing the same or similar
11 services for a county would be liable; and

12 (2) entitled to the exclusions, exceptions,
13 immunities, and defenses applicable to an employee of a county
14 under Chapter 101 and other statutory or common law.

15 SECTION 3. EFFECTIVE DATE; TRANSITION. This Act takes
16 effect September 1, 2003, and applies only to a cause of action that
17 accrues on or after that date. An action that accrues before the
18 effective date of this Act is governed by the law applicable to the
19 action immediately before the effective date of this Act, and that
20 law is continued in effect for that purpose.