

108TH CONGRESS
2D SESSION

H. R. 4265

To provide that when a company makes a charitable donation of equipment, the company is generally not liable for harm later caused by that equipment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2004

Mr. GREEN of Wisconsin introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide that when a company makes a charitable donation of equipment, the company is generally not liable for harm later caused by that equipment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CHARITABLE DONATIONS LIABILITY REFORM**

4 **FOR IN-KIND CORPORATE CONTRIBUTIONS.**

5 (a) DEFINITIONS.—For purposes of this section:

6 (1) AIRCRAFT.—The term “aircraft” has the
7 meaning provided that term in section 40102(6) of
8 title 49, United States Code.

1 (2) BUSINESS ENTITY.—The term “business
2 entity” means a firm, corporation, association, part-
3 nership, consortium, joint venture, or other form of
4 enterprise.

5 (3) EQUIPMENT.—The term “equipment” in-
6 cludes mechanical equipment, electronic equipment,
7 and office equipment.

8 (4) FACILITY.—The term “facility” means any
9 real property, including any building, improvement,
10 or appurtenance.

11 (5) GROSS NEGLIGENCE.—The term “gross
12 negligence” means voluntary and conscious conduct
13 by a person with knowledge (at the time of the con-
14 duct) that the conduct is likely to be harmful to the
15 health or well-being of another person.

16 (6) INTENTIONAL MISCONDUCT.—The term
17 “intentional misconduct” means conduct by a person
18 with knowledge (at the time of the conduct) that the
19 conduct is harmful to the health or well-being of an-
20 other person.

21 (7) MOTOR VEHICLE.—The term “motor vehi-
22 cle” has the meaning provided that term in section
23 30102(6) of title 49, United States Code.

24 (8) NONPROFIT ORGANIZATION.—The term
25 “nonprofit organization” means—

1 (A) any organization described in section
2 501(c)(3) of the Internal Revenue Code of 1986
3 and exempt from tax under section 501(a) of
4 such Code; or

5 (B) any not-for-profit organization orga-
6 nized and conducted for public benefit and op-
7 erated primarily for charitable, civic, edu-
8 cational, religious, welfare, or health purposes.

9 (9) STATE.—The term “State” means each of
10 the several States, the District of Columbia, the
11 Commonwealth of Puerto Rico, the Virgin Islands,
12 Guam, American Samoa, the Northern Mariana Is-
13 lands, any other territory or possession of the
14 United States, or any political subdivision of any
15 such State, territory, or possession.

16 (b) LIABILITY.—

17 (1) LIABILITY OF BUSINESS ENTITIES THAT
18 DONATE EQUIPMENT TO NONPROFIT ORGANIZA-
19 TIONS.—

20 (A) IN GENERAL.—Subject to subsection
21 (c), a business entity shall not be subject to
22 civil liability relating to any injury or death that
23 results from the use of equipment donated by a
24 business entity to a nonprofit organization.

1 (B) APPLICATION.—This paragraph shall
2 apply with respect to civil liability under Fed-
3 eral and State law.

4 (2) LIABILITY OF BUSINESS ENTITIES PRO-
5 VIDING USE OF FACILITIES TO NONPROFIT ORGANI-
6 ZATIONS.—

7 (A) IN GENERAL.—Subject to subsection
8 (c), a business entity shall not be subject to
9 civil liability relating to any injury or death oc-
10 ccurring at a facility of the business entity in
11 connection with a use of such facility by a non-
12 profit organization, if—

13 (i) the use occurs outside of the scope
14 of business of the business entity;

15 (ii) such injury or death occurs during
16 a period that such facility is used by the
17 nonprofit organization; and

18 (iii) the business entity authorized the
19 use of such facility by the nonprofit orga-
20 nization.

21 (B) APPLICATION.—This paragraph shall
22 apply—

23 (i) with respect to civil liability under
24 Federal and State law; and

1 (ii) regardless of whether a nonprofit
2 organization pays for the use of a facility.

3 (3) LIABILITY OF BUSINESS ENTITIES PRO-
4 VIDING USE OF A MOTOR VEHICLE OR AIRCRAFT.—

5 (A) IN GENERAL.—Subject to subsection
6 (c), a business entity shall not be subject to
7 civil liability relating to any injury or death oc-
8 ccurring as a result of the operation of aircraft
9 or a motor vehicle of a business entity loaned
10 to a nonprofit organization for use outside of
11 the scope of business of the business entity, if—

12 (i) such injury or death occurs during
13 a period that such motor vehicle or aircraft
14 is used by a nonprofit organization; and

15 (ii) the business entity authorized the
16 use by the nonprofit organization of motor
17 vehicle or aircraft that resulted in the in-
18 jury or death.

19 (B) APPLICATION.—This paragraph shall
20 apply—

21 (i) with respect to civil liability under
22 Federal and State law; and

23 (ii) regardless of whether a nonprofit
24 organization pays for the use of the air-
25 craft or motor vehicle.

1 (c) EXCEPTIONS.—Subsection (b) shall not apply to
2 an injury or death that results from an act or omission
3 of a business entity that constitutes gross negligence or
4 intentional misconduct.

5 (d) SUPERSEDING PROVISION.—

6 (1) IN GENERAL.—Subject to paragraph (2)
7 and subsection (e), this section preempts the laws of
8 any State to the extent that such laws are incon-
9 sistent with this section, except that this section
10 shall not preempt any State law that provides addi-
11 tional protection for a business entity for an injury
12 or death described in a paragraph of subsection (b)
13 with respect to which the conditions specified in
14 such paragraph apply.

15 (2) LIMITATION.—Nothing in this section shall
16 be construed to supersede any Federal or State
17 health or safety law.

18 (e) ELECTION OF STATE REGARDING NONAPPLICA-
19 BILITY.—A provision of this section shall not apply to any
20 civil action in a State court against a business entity in
21 which all parties are citizens of the State if such State
22 enacts a statute—

23 (1) citing the authority of this section;

1 (2) declaring the election of such State that
2 such provision shall not apply to such civil action in
3 the State; and

4 (3) containing no other provisions.

5 (f) EFFECTIVE DATE.—This section shall apply to in-
6 juries (and deaths resulting therefrom) occurring on or
7 after the date of the enactment of this Act.

○