

108TH CONGRESS  
2D SESSION

# S. 2793

To remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2004

Mr. SANTORUM introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

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. SHORT TITLE.**

4 This Act may be cited as the “Good Samaritan Vol-  
5 unteer Firefighter Assistance Act of 2004”.

6 **SEC. 2. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DIS-**  
7 **COURAGE THE DONATION OF FIRE EQUIP-**  
8 **MENT TO VOLUNTEER FIRE COMPANIES.**

9 (a) **LIABILITY PROTECTION.**—A person who donates  
10 fire control or fire rescue equipment to a volunteer fire

1 company shall not be liable for civil damages under any  
2 State or Federal law for personal injuries, property dam-  
3 age or loss, or death proximately caused by the equipment  
4 after the donation.

5 (b) EXCEPTIONS.—Subsection (a) does not apply to  
6 a person if—

7 (1) the person’s act or omission proximately  
8 causing the injury, damage, loss, or death con-  
9 stitutes gross negligence or intentional misconduct;  
10 or

11 (2) the person is the manufacturer of the fire  
12 control or fire rescue equipment.

13 (c) PREEMPTION.—This Act preempts the laws of  
14 any State to the extent such laws are inconsistent with  
15 this Act, except that notwithstanding subsection (b), this  
16 Act shall not preempt any State law that provides addi-  
17 tional protection from liability for a person who donates  
18 fire control or fire rescue equipment to a volunteer fire  
19 company.

20 (d) DEFINITIONS.—In this section:

21 (1) PERSON.—The term “person” includes any  
22 governmental or other entity.

23 (2) FIRE CONTROL OR RESCUE EQUIPMENT.—  
24 The term “fire control or fire rescue equipment” in-

1 includes any fire vehicle, fire fighting tool, protective  
2 gear, fire hose, or breathing apparatus.

3 (3) GROSS NEGLIGENCE.—The term “gross  
4 negligence” means voluntary and conscious conduct  
5 harmful to the health or well-being of another per-  
6 son by a person who, at the time of the conduct,  
7 knew that the conduct was likely to be harmful to  
8 the health or well-being of another person.

9 (4) INTENTIONAL MISCONDUCT.—The term  
10 “intentional misconduct” means voluntary and con-  
11 scious conduct harmful to the health or well-being of  
12 another person by a person who, at the time of the  
13 conduct, knew that the conduct was harmful to the  
14 health or well-being of another person.

15 (5) STATE.—The term “State” includes the  
16 several States, the District of Columbia, the Com-  
17 monwealth of Puerto Rico, the Commonwealth of the  
18 Northern Mariana Islands, American Samoa, Guam,  
19 the Virgin Islands, any other territory or possession  
20 of the United States, and any political subdivision of  
21 any such State, territory, or possession.

22 (6) VOLUNTEER FIRE COMPANY.—The term  
23 “volunteer fire company” means an association of  
24 individuals who provide fire protection and other  
25 emergency services, where at least 30 percent of the

1 individuals receive little or no compensation com-  
2 pared with an entry level full-time paid individual in  
3 that association or in the nearest such association  
4 with an entry level full-time paid individual.

5 (e) EFFECTIVE DATE.—This Act applies only to li-  
6 ability for injury, damage, loss, or death caused by equip-  
7 ment that, for purposes of subsection (a), is donated on  
8 or after the date that is 30 days after the date of the  
9 enactment of this Act.

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