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**SUBSTITUTE SENATE BILL 5185**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senate State Government (originally sponsored by Senators Wilson, Mullet, and Palumbo)

READ FIRST TIME 02/09/17.

1 AN ACT Relating to immunity from liability for professional or  
2 trade associations providing emergency response volunteers; and  
3 amending RCW 38.52.180.

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

5 **Sec. 1.** RCW 38.52.180 and 2016 c 84 s 1 are each amended to read  
6 as follows:

7 (1) There shall be no liability on the part of anyone including  
8 any person, partnership, corporation, the state of Washington or any  
9 political subdivision thereof who owns or maintains any building or  
10 premises which have been designated by a local organization for  
11 emergency management as a shelter from destructive operations or  
12 attacks by enemies of the United States for any injuries sustained by  
13 any person while in or upon said building or premises, as a result of  
14 the condition of said building or premises or as a result of any act  
15 or omission, or in any way arising from the designation of such  
16 premises as a shelter, when such person has entered or gone upon or  
17 into said building or premises for the purpose of seeking refuge  
18 therein during destructive operations or attacks by enemies of the  
19 United States or during tests ordered by lawful authority, except for  
20 an act of willful negligence by such owner or occupant or his or her  
21 servants, agents, or employees.

1 (2) All legal liability for damage to property or injury or death  
2 to persons (except an emergency worker, regularly enrolled and acting  
3 as such), caused by acts done or attempted during or while traveling  
4 to or from an emergency or disaster, search and rescue, or training  
5 or exercise authorized by the department in preparation for an  
6 emergency or disaster or search and rescue, under the color of this  
7 chapter in a bona fide attempt to comply therewith, except as  
8 provided in subsections (3), (4), and (5) of this section regarding  
9 covered volunteer emergency workers, shall be the obligation of the  
10 state of Washington. Suits may be instituted and maintained against  
11 the state for the enforcement of such liability, or for the  
12 indemnification of persons appointed and regularly enrolled as  
13 emergency workers while actually engaged in emergency management  
14 duties, or as members of any agency of the state or political  
15 subdivision thereof engaged in emergency management activity, or  
16 their dependents, for damage done to their private property, or for  
17 any judgment against them for acts done in good faith in compliance  
18 with this chapter: PROVIDED, That the foregoing shall not be  
19 construed to result in indemnification in any case of willful  
20 misconduct, gross negligence, or bad faith on the part of any agent  
21 of emergency management: PROVIDED, That should the United States or  
22 any agency thereof, in accordance with any federal statute, rule, or  
23 regulation, provide for the payment of damages to property and/or for  
24 death or injury as provided for in this section, then and in that  
25 event there shall be no liability or obligation whatsoever upon the  
26 part of the state of Washington for any such damage, death, or injury  
27 for which the United States government assumes liability.

28 (3) No act or omission by a covered volunteer emergency worker  
29 while engaged in a covered activity shall impose any liability for  
30 civil damages resulting from such an act or omission upon:

31 (a) The covered volunteer emergency worker;

32 (b) The supervisor or supervisors of the covered volunteer  
33 emergency worker;

34 (c) Any facility or their officers or employees;

35 (d) The employer of the covered volunteer emergency worker;

36 (e) The owner of the property or vehicle where the act or  
37 omission may have occurred during the covered activity;

38 (f) Any local organization that registered the covered volunteer  
39 emergency worker; (~~and~~)

40 (g) The state or any state or local governmental entity; and

1        (h) Any professional or trade association of covered volunteer  
2 emergency workers.

3        (4) The immunity in subsection (3) of this section applies only  
4 when the covered volunteer emergency worker was engaged in a covered  
5 activity:

6            (a) Within the scope of his or her assigned duties;

7            (b) Under the direction of a local emergency management  
8 organization or the department, or a local law enforcement agency for  
9 search and rescue; and

10          (c) The act or omission does not constitute gross negligence or  
11 willful or wanton misconduct.

12          (5) For purposes of this section:

13            (a) "Covered volunteer emergency worker" means an emergency  
14 worker as defined in RCW 38.52.010 who (i) is not receiving or  
15 expecting compensation as an emergency worker from the state or local  
16 government, or (ii) is not a state or local government employee  
17 unless on leave without pay status.

18            (b) "Covered activity" means:

19            (i) Providing assistance or transportation authorized by the  
20 department during an emergency or disaster or search and rescue as  
21 defined in RCW 38.52.010, whether such assistance or transportation  
22 is provided at the scene of the emergency or disaster or search and  
23 rescue, at an alternative care site, at a hospital, or while in route  
24 to or from such sites or between sites; or

25            (ii) Participating in training or exercise authorized by the  
26 department in preparation for an emergency or disaster or search and  
27 rescue.

28          (6) Any requirement for a license to practice any professional,  
29 mechanical, or other skill shall not apply to any authorized  
30 emergency worker who shall, in the course of performing his or her  
31 duties as such, practice such professional, mechanical, or other  
32 skill during an emergency described in this chapter.

33          (7) The provisions of this section shall not affect the right of  
34 any person to receive benefits to which he or she would otherwise be  
35 entitled under this chapter, or under the workers' compensation law,  
36 or under any pension or retirement law, nor the right of any such  
37 person to receive any benefits or compensation under any act of  
38 congress.

39          (8) Any act or omission by a covered volunteer emergency worker  
40 while engaged in a covered activity using an off-road vehicle,

1 nonhighway vehicle, or wheeled all-terrain vehicle does not impose  
2 any liability for civil damages resulting from such an act or  
3 omission upon the covered volunteer emergency worker or the worker's  
4 sponsoring organization.

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