

Senate Bill 413

By: Senators McKoon of the 29th and Albers of the 56th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to
2 define certain terms; to provide that an emergency responder who is injured or killed in the
3 line of duty may recover damages against any person whose neglect, willful omission, or
4 willful or culpable conduct contributed to such injury or death; to repeal the common law
5 fireman's rule in Georgia; to provide that an emergency responder who enters onto land in
6 his or her official duties shall have the status of an invitee; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising
11 Code Section 51-1-30, relating to liability of officers and agents for acts performed while
12 fighting fires or performing duties at the scene of emergencies, as follows:

13 "51-1-30.

14 (a) As used in this Code section, the term:

15 (1) 'Emergency medical technician' means a person who has been certified by the
16 department after having successfully completed an emergency medical care training
17 program approved by the Department of Public Health.

18 (2) 'Emergency responder' means an emergency medical technician, firefighter, first
19 responder, paramedic, and peace officer.

20 (3) 'fire Fire department' includes volunteer fire departments established pursuant to local
21 act, ordinance, or resolution or established as nonprofit corporations pursuant to private
22 subscription and any fire department established as a department, bureau, or agency of
23 a municipality, county, fire district, or authority of this state.

24 (4) 'Firefighter' means a trained individual who is a full-time employee, part-time
25 employee, or volunteer for a municipal, county, state, or private incorporated fire
26 department and as such has duties of responding to mitigate a variety of emergency and

27 nonemergency situations where life, property, or the environment is at risk, which may
28 include without limitation fire suppression; fire prevention activities; emergency medical
29 services; hazardous materials response and preparedness; technical rescue operations;
30 search and rescue; disaster management and preparedness; community service activities;
31 response to civil disturbances and terrorism incidents; nonemergency functions including
32 training, preplanning, communications, maintenance, and physical conditioning; and
33 other related emergency and nonemergency duties as may be assigned or required;
34 provided, however, that a firefighter's assignments may vary based on geographic,
35 climatic, and demographic conditions or other factors including training, experience, and
36 ability.

37 (5) 'First responder' means any person or agency who provides on-site care until the
38 arrival of a duly licensed ambulance service.

39 (6) 'Paramedic' means any person who has been certified by the composite board before
40 January 1, 2002, or by the department on or after January 1, 2002, as having been trained
41 in emergency care techniques in a paramedic training course approved by the Department
42 of Public Health.

43 (7) 'Peace officer' means:

44 (A) An agent, operative, or officer of this state, a subdivision or municipality thereof,
45 or a railroad who, as an employee for hire or as a volunteer, is vested either expressly
46 by law or by virtue of public employment or service with authority to enforce the
47 criminal or traffic laws through the power of arrest and whose duties include the
48 preservation of public order, the protection of life and property, and the prevention,
49 detection, or investigation of crime;

50 (B) An enforcement officer who is employed by the Department of Transportation in
51 its Office of Permits and Enforcement and any person employed by the Department of
52 Juvenile Justice who is designated by the commissioner to investigate and apprehend
53 delinquent children and any child with a pending juvenile court case alleging the child
54 to be a child in need of services;

55 (C) Personnel who are authorized to exercise the power of arrest, who are employed
56 or appointed by the Department of Juvenile Justice, and whose full-time duties include
57 the preservation of public order, the protection of life and property, the detection of
58 crime, or the supervision of delinquent children in the department's institutions,
59 facilities, or programs;

60 (D) Personnel who are authorized to exercise the power of arrest and who are
61 employed or appointed by the Department of Corrections, the State Board of Pardons
62 and Paroles, municipal correctional institutions employing 300 or more correctional
63 officers, county probation systems, and county correctional institutions; and

64 (E) An administrative investigator who is an agent, operative, investigator, or officer
 65 of this state whose duties include the prevention, detection, and investigation of
 66 violations of law and the enforcement of administrative, regulatory, licensing, or
 67 certification requirements of his or her respective employing agency.

68 Law enforcement support personnel are not peace officers within the meaning of this
 69 Code section, but they may be certified upon voluntarily complying with the certification
 70 provisions of this Code section.

71 (b) The officers, members, agents, or employees of any fire department established by any
 72 county, municipality, fire district, or authority shall not be liable at law for any act or acts
 73 done while actually fighting a fire or performing duties at the scene of an emergency,
 74 except for willful negligence or malfeasance.

75 (c) This Code section shall not affect the right of any party to recover damages for an act
 76 which occurred before July 1, 1980.

77 (d) Whenever any emergency responder suffers an injury, disease, or death while in the
 78 lawful discharge of his or her official duties, and that injury, disease, or death is directly
 79 or indirectly the result of the neglect, willful omission, or willful or culpable conduct of any
 80 person or entity other than the employer or a co-employee of such emergency responder,
 81 then such emergency responder or a representative of his or her estate may seek recovery
 82 of damages from the person or entity whose neglect, willful omission, or willful or culpable
 83 conduct resulted in the injury, disease, or death. The remedy provided in this Code section
 84 shall be in addition to any other right of action or recovery otherwise available under law.
 85 (e) The common law 'firefighter's rule' recognized by Georgia courts in *Ingram vs.*
 86 *Peachtree South, Ltd.*, 182 Ga. App. 367 (1987), and subsequent judicial decisions which
 87 bar recovery by police officers, firefighters, and other professional rescuers of damages
 88 incurred in the course of their duties, even in cases of clear negligence by other parties, is
 89 abolished in this state."

90 **SECTION 2.**

91 Said title is further amended by revising Code Section 51-3-1, relating to the duty of the
 92 owner or occupier of land to invitee, as follows:

93 "51-3-1.

94 (a) As used in this Code section, the term:

95 (1) 'Emergency medical technician' means a person who has been certified by the
 96 department after having successfully completed an emergency medical care training
 97 program approved by the Department of Public Health.

98 (2) 'Emergency responder' means an emergency medical technician, firefighter, first
 99 responder, paramedic, and peace officer.

100 (3) 'Firefighter' means a trained individual who is a full-time employee, part-time
101 employee, or volunteer for a municipal, county, state, or private incorporated fire
102 department and as such has duties of responding to mitigate a variety of emergency and
103 nonemergency situations where life, property, or the environment is at risk, which may
104 include without limitation fire suppression; fire prevention activities; emergency medical
105 services; hazardous materials response and preparedness; technical rescue operations;
106 search and rescue; disaster management and preparedness; community service activities;
107 response to civil disturbances and terrorism incidents; nonemergency functions including
108 training, preplanning, communications, maintenance, and physical conditioning; and
109 other related emergency and nonemergency duties as may be assigned or required;
110 provided, however, that a firefighter's assignments may vary based on geographic,
111 climatic, and demographic conditions or other factors including training, experience, and
112 ability.

113 (4) 'First responder' means any person or agency who provides on-site care until the
114 arrival of a duly licensed ambulance service.

115 (5) 'Paramedic' means any person who has been certified by the composite board before
116 January 1, 2002, or by the department on or after January 1, 2002, as having been trained
117 in emergency care techniques in a paramedic training course approved by the Department
118 of Public Health.

119 (6) 'Peace officer' means:

120 (A) An agent, operative, or officer of this state, a subdivision or municipality thereof,
121 or a railroad who, as an employee for hire or as a volunteer, is vested either expressly
122 by law or by virtue of public employment or service with authority to enforce the
123 criminal or traffic laws through the power of arrest and whose duties include the
124 preservation of public order, the protection of life and property, and the prevention,
125 detection, or investigation of crime;

126 (B) An enforcement officer who is employed by the Department of Transportation in
127 its Office of Permits and Enforcement and any person employed by the Department of
128 Juvenile Justice who is designated by the commissioner to investigate and apprehend
129 delinquent children and any child with a pending juvenile court case alleging the child
130 to be a child in need of services;

131 (C) Personnel who are authorized to exercise the power of arrest, who are employed
132 or appointed by the Department of Juvenile Justice, and whose full-time duties include
133 the preservation of public order, the protection of life and property, the detection of
134 crime, or the supervision of delinquent children in the department's institutions,
135 facilities, or programs;

136 (D) Personnel who are authorized to exercise the power of arrest and who are
137 employed or appointed by the Department of Corrections, the State Board of Pardons
138 and Paroles, municipal correctional institutions employing 300 or more correctional
139 officers, county probation systems, and county correctional institutions; and

140 (E) An administrative investigator who is an agent, operative, investigator, or officer
141 of this state whose duties include the prevention, detection, and investigation of
142 violations of law and the enforcement of administrative, regulatory, licensing, or
143 certification requirements of his or her respective employing agency.

144 Law enforcement support personnel are not peace officers within the meaning of this
145 Code section, but they may be certified upon voluntarily complying with the certification
146 provisions of this Code section.

147 (b) Where an owner or occupier of land, by express or implied invitation, induces or leads
148 others to come upon his or her premises for any lawful purpose, he or she is liable in
149 damages to such persons for injuries caused by his or her failure to exercise ordinary care
150 in keeping the premises and approaches safe.

151 (c) Emergency responders who enter upon land owned or occupied by another for the
152 purpose of carrying out their official duties shall occupy the status of invitee."

153 **SECTION 3.**

154 All laws and parts of laws in conflict with this Act are repealed.