

No. 1982-220

AN ACT

HB 50

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for nonmedical good Samaritan civil immunity.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 42, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding a section to read:

§ 8336. *Civil immunity for assistance upon request in incidents involving the transportation of hazardous substances.*

(a) *General rule.*—During the course of transportation, including the loading and unloading thereof, of hazardous substances, no person shall be liable in civil damages when his conduct consists solely of action or inaction taken or omitted in the course of rendering care, assistance or advice, voluntarily and upon request of any police agency, fire department, rescue or emergency squad, any other governmental agency, the person responsible for preventing, mitigating or cleaning up the danger to person, property or environment or the owner or manufacturer of the hazardous substance involved, with respect to an incident creating a danger to person, property or environment as a result of spillage, leakage, seepage, fire, explosion or other accidental or potential accidental release of hazardous substances.

(b) *Exclusions.*—The immunities provided in this section shall not apply to any person who:

(1) *is under a legal duty to respond to the incident;*

(2) *received remuneration beyond reimbursement for out of pocket expenses for services in rendering such care, assistance or advice in connection therewith or had the expectation of receiving such remuneration from the recipient of such care, assistance or advice or from someone acting on his behalf; or*

(3) *does not personally possess or does not provide personnel who possess the skill, training or knowledge with regard to the safe handling of hazardous substances, their effects and incidents involving the transportation of hazardous substances in order to render the care, assistance or advice requested.*

(c) *Persons not affected.*—This section shall not be construed to affect any immunity otherwise granted by statute to any police agency, fire department, rescue or emergency squad or any other governmental agency.

(d) *Gross negligence or willful misconduct.*—Nothing in this section shall be construed to limit or otherwise affect or preclude the liability of

any person resulting from such person's gross negligence or intentional misconduct. Reckless, willful or wanton misconduct shall constitute gross negligence.

(e) Definitions.—As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Hazardous substances.” All substances which are defined as hazardous in the act of November 9, 1965 (P.L.657, No.323), known as the “Hazardous Substances Transportation Act,” or any subsequent amendment thereto.

“Person.” Any individual, partnership, corporation, association or other entity.

Section 2. This act shall take effect in 60 days.

APPROVED—The 1st day of December, A. D. 1982.

DICK THORNBURGH