

HB

340

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House L3C

January 21, 1988

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/11/88

FURTHER REFERRALS: Judiciary

DATE: 1/21/88

The Labor & Commerce Committee has considered HB 340

"An Act granting immunity from civil liability for providing volunteer emergency services."

RECOMMENDS:

- replace with CS 413340 (L+C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

[Signature]
[Signature]
~~[Signature]~~
Clyff Davidson
[Signature]
[Signature]
[Signature]

[Signature]
 Chairman's signature

Original sponsors: Davis, Koponen,
Ulmer, et al.

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 340 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act granting immunity from civil liability fo
7 providing volunteer emergency services."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 09.65.090 is amended by adding a new subsection t
10 read:

11 (c) An organization and its members are not liable for civ
12 damages as a result of an act or omission in providing first ai
13 search, rescue, or other emergency services, regardless of whether t
14 organization or members are under a preexisting duty to render assi
15 tance, if

16 (1) the organization exists for the purpose of providi
17 the service rendered; and

18 (2) the member provided the service while acting as
19 volunteer member of the organization; in this paragraph, "volunte
20 means a person who receives financial consideration of not more t
21 \$10 a day and a total of not more than \$500 a year, not includ
22 reimbursement for expenses actually incurred, for providing emerge
23 services.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act granting immunity
from civil liability for...
Sponsor: Davis et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: State Health Services
Components: EMS Certification and
Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 340 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director *Elizabeth Ward* Phone: 465-3090
Division: Public Health Date: 1-20-88

Approved by Commissioner: *Maria M. Mearns* Date: 1-20-88
Agency: Department of Health & Social Services

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

BY DAVIS, KOPONEN, ULMER
GRUSSENDORF, PETTYJOHN
GOLL, HUDSON AND LARSON

1 IN THE HOUSE

2 HOUSE BILL NO. 340

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act granting immunity from civil liability for
7 providing volunteer emergency services."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 09.65.090 is amended by adding a new subsection to
10 read:

11 (c) An organization and its members are not liable for civil
12 damages as a result of an act or omission in providing first aid,
13 search, rescue, or other emergency services, regardless of whether the
14 organization or members are under a preexisting duty to render assis-
15 tance, if

16 (1) the organization exists for the purpose of providing
17 the service rendered; and

18 (2) the member provided the service while acting as a
19 volunteer member of the organization.
20
21
22
23
24
25



Alaska State Legislature

Representative Mike Davis

P.O. Box V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

TO: Members of the House Labor & Commerce Committee
FROM: Rep. Mike Davis
DATE: January 21, 1988
RE: Good Samaritan Legislation

HB 340 will be before you in the House Labor and Commerce Committee this afternoon. The bill amends the Good Samaritan Act to protect members of volunteer first aid organizations from liability.

Ordinary citizens who try to help in emergency situations are protected from liability by the Good Samaritan Act, AS 09.65.090. Paramedics and EMTs who are certified by the state are covered in liability questions by AS 18.08.086. However, members of volunteer rescue organizations such as the National Ski Patrol, Civil Air Patrol, and mountain rescue groups may not have any statutory protection.

First aid and rescue volunteers are vulnerable to litigation because they have an obligation to help people while serving in their organizations. The Alaska Supreme Court has ruled that the Good Samaritan Act does not protect those who have a "pre-existing obligation to assist individuals in danger".

HB 340 would protect emergency services volunteers and their organizations from liability for their good faith attempts to aid those in danger. However, they would still be liable for damages as a result of "gross negligence, recklessness, or intentional misconduct" as stated in subsection (b) of the existing Good Samaritan Act.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 11, 1988

SUBJECT: Immunity from civil liability for volunteer
emergency services (Work Order No. 5-1495)

TO: Representative Mike Davis

FROM: Edward H. Hein *EHA*
Legislative Counsel

You have asked whether volunteer ski patrol members are in fact open to liability for negligence during rescue operations and whether, therefore, your legislation (Work Order No. 5-1495A) is needed.

Your bill amends AS 09.60.090, Alaska's "Good Samaritan" law. This law provides immunity from civil liability for negligent acts or omissions by persons rendering emergency aid to people in immediate danger of serious harm or death. The purpose of the law is to encourage people to voluntarily come to the aid of persons in need of rescue without having to fear potential civil liability for negligence. Lee v. State, 490 P.2d 1206, 1209 (Alaska 1971).

The Alaska Supreme Court in Lee ruled that the immunity under this statute does not extend to persons, such as state troopers, who are under a "pre-existing duty to rescue." It is an open question whether ski patrollers have a pre-existing duty to rescue. The Alaska courts have not decided that question. It can be argued that ski patrollers are under a pre-existing duty to rescue and are, therefore, not immune from civil liability under Alaska's Good Samaritan Act. In order that ski patrollers and other similar rescue group volunteers are assured of immunity, it would be prudent to have the provisions of your bill or similar language in the statutes.

Position Paper

HB 340

For an Act entitled: "An Act granting immunity from civil liability for providing volunteer emergency services."

This Act amends AS 09.65.090 (civil liability for emergency aid) to expand the coverage to a person who provides emergency services, e.g., first aid and search and rescue, while acting as a volunteer for an organization that exists for the purpose of providing the service rendered, regardless of whether the organization or members are under a preexisting duty to render assistance. Currently, AS 09.65.090 only provides immunity from liability to persons who do not have a preexisting duty to act. Many individuals and organizations providing emergency services, such as volunteer ski patrollers and search and rescue teams, do not currently have protection from liability afforded by statute.

Position

The Department of Health and Social Services supports this bill because it increases immunity from liability for volunteer emergency service workers, many of whom are under a preexisting duty to act and, consequently, are not covered by AS 09.65.090. It is likely that passage of this legislation would increase the number of individuals willing to provide emergency services and would decrease the rate of attrition among emergency service volunteers.

Recommended by:

Elizabeth Ward
Elizabeth Ward, M.N.
Director
Division of Public Health

Date:

January 20, 1988

Approved by:

Myra M. Munson
Myra M. Munson
Commissioner
Department of Health and
Social Services

Date:

Jan 20, 1988

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act granting immunity
from civil liability for...
Sponsor: Davis et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: State Health Services
Components: FMS Certification and
Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The enactment of HB 340 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director Phone: 465-3090
Division: Public Health Date: 1-20-88

Approved by Commissioner: Maria M. Munson Date: 1-20-88
Agency: Department of Health & Social Services

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

BILL NO: HB 340

DATE: 1/20/88

TITLE: An Act Granting Immunity
From Civil Liability For
Providing Volunteer
Emergency Services.

CONTACT: Capt. McConnaughey

DEPARTMENT OF
PUBLIC SAFETY

Search and rescue in Alaska is the responsibility of the Alaska State Troopers, U.S. Air Force, and U.S. Coast Guard. All three agencies use volunteers to aid in the search activities. Probably 70% of all Trooper searches are conducted by volunteers acting under the direction of the Troopers. The organized volunteers are trained, equipped, and ready on a moment's notice. All search and rescue agencies depend on the volunteers. Without volunteers our job would be more difficult and time consuming. This bill provides the volunteers with a degree of civil protection if someone is inadvertently injured during the rescue.

Arthur English / jc
Arthur English, Commissioner

POSTED FOR PUBLIC

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST
 Revision Date: _____
 Title: "An Act Granting immunity ... for providing ... emergency services."
 Sponsor: Rep. Davis, etc.
 Requestor: _____

Bill Version: HB340
 Publish Date: _____
 Agency Affected: Public Safety
 BRU: Alaska State Troopers
 Components: Detachments

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No increase or decrease in the level of expenditures is anticipated as a result of the passage of this legislation.

Prepared by: Francis C. Allan
 Division: Alaska State Troopers
 Approved by Commissioner: Arthur E. English / jc
 Agency: Public Safety
 Distribution: (by preparer):

Phone: 269-5651
 Date: 1/20/88
 Date: 1/20/88

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary



NATIONAL SKI PATROL SYSTEM, INC.
ALASKA DIVISION

DIVISION

TITLE

101 College Road
Fairbanks, Alaska
January 18, 1988

Representative Mike Davis
Fairbanks Legislative Delegation
Fairbanks, Alaska

Dear Representative Davis:

Re: House Bill # 340

Thank you for your interest in amending the "Good Samaritan" act in the State of Alaska.

The Ski Patrol is a volunteer organization dedicated to public service by promoting safe skiing and providing rescue services. All members are trained in emergency first aid care to the level of American Red Cross Advanced First Aid, or beyond. This bill will directly and immediately affect our position as volunteers.

As the Director of the Ski Patrol in Alaska, representing three hundred and fifty members, I strongly urge your support of Senate Bill #346 ,and request immediate action on said bill.

Thank you.

Sincerely,

Harley Adamson
DIVISION DIRECTOR
ALASKA DIVISION
NATIONAL SKI PATROL SYSTEM

SEADOGS

SOUTHEAST ALASKA DOGS
ORGANIZED FOR GROUND SEARCH

PO BOX 244

JUNEAU, ALASKA 99802

1/15/88

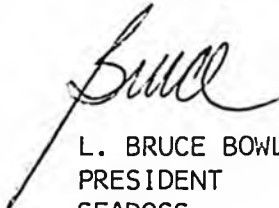
REPRESENTATIVE MIKE DAVIS
ALASKA STATE LEGISLATURE
PO BOX V
JUNEAU, AK. 99811

REPRESENTATIVE DAVIS:

I AM WRITING YOU IN SUPPORT OF HOUSE BILL 340, "AN ACT GRANTING IMMUNITY FOR VOLUNTEER EMERGENCY SERVICES". "SEADOGS" IS A STATEWIDE SEARCH AND RESCUE DOG ORGANIZATION WHICH PROVIDES TRAINED SEARCH DOGS AND HANDLERS TO THE STATE TROOPERS, COAST GUARD, AND AIRFORCE RESCUE CENTERS, AS WELL AS LOCAL LAW ENFORCEMENT AGENCIES ON A VOLUNTEER BASIS. OUR HANDLERS DEVOTE MANY HOURS OF THEIR PERSONAL TIME EVERY WEEK TRAINING FOR SEARCHES, AND THE TIME THEY SPEND IN THE FIELD SEARCHING FOR SOMEONE'S CHILD, A LOST HIKER OR HUNTER, OR SOMEONE TRAPPED IN AN AVALANCHE OR EARTHQUAKE RUBBLE IS PAID FOR OUT OF OUR OWN POCKETS. THIS BILL WOULD ALLOW TEAM MEMBERS TO OPERATE CONFIDENT IN THE KNOWLEDGE THAT ANY FIRST AID ADMINISTERED BY THEM, OR ANY ATTEMPTS TO ASSIST A LOST OR INJURED INDIVIDUAL WITHIN THE SCOPE OF OUR TRAINING, WOULD NOT BE MET BY CIVIL LIABILITY.

WE WHOLEHEARTEDLY SUPPORT THE BILL, AND REQUEST THAT YOU GIVE IT YOUR BEST EFFORTS.

SINCERELY,



L. BRUCE BOWLER
PRESIDENT
SEADOGS

MEMBER: NASAR

TELECOPY COVER SHEET

RECEIVED
JAN 18 1988

DATE: January 18, 1988

TO: Rep. Dave Donley Rm. 13

FROM: Marc Bond

RE: House Bill - 340

- 1. This telecopy contains 5 pages, including this cover sheet.
- 2. Please call at (907)279-3581 to confirm receipt of this telecopy.
- 3. No confirmation required

Additional Information: Please route as soon as possible to Rep. Donley - a hearing on House Bill 340 is scheduled for Thursday.

**National Ski Patrol System, Inc., Alaska Division**

Marc D. Bond
Winter Emergency Care Supervisor
1007 West Third Avenue # 400
Anchorage, Alaska 99501

W: (907) 279-3581
H: (907) 345-6078

January 18, 1988

Representative Dave Donley
Chairman, House Labor and Commerce Committee
Mail Stop 3100
P.O. Box V
Juneau AK 99811

Re: House Bill 340: "An Act granting immunity from civil liability for providing volunteer emergency services."

Dear Chairman Donley:

I am a volunteer ski patroller at Alyeska Resort. Virtually all ski patrollers in Alaska are members of the National Ski Patrol System, Inc., a national volunteer organization which trains and provides ski patrollers who volunteer millions of hours each year to promote ski safety and to rescue lost and injured nordic and alpine skiers.

We rigorously train our patrollers in first aid, skiing and rescue techniques. Many people in Alaska owe their lives or physical health to the swift and careful care given them by Alaska ski patrollers.

Now we are finding that our patrollers are reluctant to become involved in rescue situations. Several have quit volunteering their time to patrol activities. These patrollers would like to help, but over the course of the last several years they have become afraid of being sued because of their participation in assisting lost and injured skiers.

Unfortunately we can do little to calm their fears. It is true that ski patrollers are infrequently sued. It is also true that these suits seldom result in judgments against the patrollers. Nevertheless, statistics mean little when you find yourself on the receiving end of a summons and complaint. I enclose a story from the Riverside (California) Mountain Rescue Unit newsletter telling about a \$12 million suit initiated against the organization and several of its members by an individual they had rescued.

It seems grossly unfair that one should volunteer time, money and effort to help others, and then be sued by the very ones helped.

Representative Dave Donley
January 18, 1988
Page 2

As the late William Prosser stated, "The result of all this is that the good Samaritan who tries to help may find himself mulcted in damages, while the priest and the Levite who pass by on the other side go on their cheerful way rejoicing." W. Prosser, *The Law of Torts* @ 56, at 344 (4th ed. 1971).

Our Supreme Court has held that the existing Good Samaritan Act does not apply to individuals who have a pre-existing duty to go to the aid of others. (*Lee v. State*, 490 P.2d 1206 (Alaska 1971)). When we put on our patrol parkas and post ourselves on ski hills and trails throughout the state, we wonder if the court would hold that ski patrollers, although volunteers, have that "pre-existing duty" to rescue injured skiers. If so, we lose the protection of the Good Samaritan Act, and can be sued for real or imagined injuries received during the rescue. We do not believe that represents good public policy, for it discourages volunteers from helping others -- the opposite intent of the Good Samaritan Act.

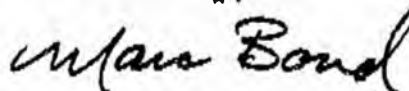
Recently Rep. Mike Davis introduced House Bill 340. I enclose a copy for your information. The Legislative Affairs Agency tells me that it has been initially referred to the Labor and Commerce Committee. Senator Fahrenkamp has introduced identical legislation in the Senate. Senate Bill 346.

House Bill 340 would remove the specter of ruinous litigation for volunteer members of rescue squads. I firmly believe it can be empirically demonstrated that enactment of this legislation would encourage many Alaskans to participate in volunteer rescue squads.

It should be noted that the bill does not attempt to eliminate liability for gross negligence or intentional acts. Such acts would provide a basis for litigation as noted in subsection (b) of AS 09.65.090. Thus, rescued individuals who are the victims of particularly abhorrent care would still be provided a forum to redress the matter.

I urge you to hold prompt hearings on House Bill 340. It is good public policy and ought to be enacted. If I can provide additional information, please let me know.

Sincerely,



Marc Bond

Enc.

cc: Harley Adamson
Tom Smith
Bob Janes

Walter
FYI . 2 Am

no other info

Wences

Riverside Mountain Rescue Unit Sued for Rescue

In October, 1983, the Riverside Mountain Rescue Unit, Riverside, California was called to help in the rescue of a stranded man on the side of Box Springs Mountain above Riverside. The terrain was too difficult for the general lally to manuever safely. Craig Fredborg, 23, was hiking with 2 friends when he slipped from a viewpoint and fell 70 feet. After Craig's friends found him, they moved him a short distance and then just waited. Thirty hours elapsed before the RMRU was called and arrived on the scene. Using the proper equipment and the proper methods, the rescue was carried out as quickly as safety for the injured and rescuers would allow.

A year later, the RMRU, along with several other organizations and individuals, finds itself on the recelying end of a twelve million dollar lawsuit filed by the young man who was rescued. Two of the individuals being sued are Walt Walker, President of RMRU (who was not even on the rescue mission) and his son, Kevin, who was a member of the rescue mission.

The Riverside Mountain Rescue Unit is one of the most active and highly respected rescue units in the country. Walt Walker, who has been with the rescue unit for 24 years, has an estimated 10,000 hours of volunteer time with the unit. He says, "To be sued by someone we voluntarily risked our own safety for is difficult, to say the least, to deal with. We wish to continue—we shall have to wait to see if we can."

Interestingly, since the lawsuit was filed, the RMRU has responded to ten calls within a few weeks, and eight people are alive because they came.

-RMRU Newsletter