

SB

346



# Matanuska-Susitna Borough

P.O. BOX 1608, PALMER, ALASKA 99645 • PHONE 376-9628

DEPARTMENT OF FINANCE  
EMERGENCY MEDICAL SERVICES DIVISION

February 12, 1988

FEB 22 1988

The Honorable Jay Kertulla  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Kertulla:

The Borough Emergency Medical Services Advisory Board would like to offer its support to the passage of SB346 relating to immunity from civil liability for emergency services volunteers. The Mat-Su Borough operates its EMS and Fire programs with an all volunteer force of over 450 people. These dedicated individuals are the backbone of one of the most sophisticated emergency services organizations in the state. Tens of thousands of volunteer hours are spent each year by these people providing emergency medical care and protecting the lives and property of our Borough.

SB346 would further reduce their liability for providing these critical services. As you are probably aware, the cost of acquiring insurance for these programs has skyrocketed in the past few years. Over ten percent of our total budget this next year will go towards insurance programs. This takes away from other programs such as training for the volunteers.

Your assistance in supporting and passing this important piece of legislation is greatly appreciated by our volunteers. Reducing the concerns over liability will reassure the volunteers that their efforts on behalf of our community are important and of value and concern of the legislature.

Please feel free to contact me should you have questions on our program or any other matter concerning emergency services.

Sincerely,

*Dennis Heikes*

DENNIS HEIKES  
Chair, EMS Advisory Board

DH/lS

Beth

LAW OFFICES  
SONOSKY, CHAMBERS, SACHSE & MILLER

SUITE 700  
900 WEST FIFTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 258-6377  
TELECOPIER (907) 272-8332

FEB 22 1988

MARVIN J. SONOSKY  
HARRY R. SACHSE  
REID PEYTON CHAMBERS  
WILLIAM R. PERRY  
LLOYD BENTON MILLER\*  
DONALD J. SIMON  
DOUGLAS B. L. ENDRESON\*\*  
MARY V. EARNEY  
ANNE D. NOTO  
JILL A. DE LA HUNT\*

OF COUNSEL  
LOFTUS E. BECKER, JR.  
ROGER W. DUBROCK

WASHINGTON, D. C. OFFICE  
1250 EYE STREET, N. W.  
WASHINGTON, D. C. 20005  
(202) 682-0240

February 17, 1988

\*ALASKA AND DISTRICT OF COLUMBIA BARS  
\*\*WISCONSIN BAR  
ALL OTHERS DISTRICT OF COLUMBIA BAR

Honorable Chairman Jalmar Kerttula  
Senate Committee on Judiciary  
State Capitol Bldg.  
P. O. Box V (Mail Stop 3100)  
Juneau, AK 99811

Re: Good Samaritan Law Amendments  
(Our File No. 911.21)

Dear Chairman Kerttula:

We write on behalf of the Alaska Native Health Board and the Association of Regional Health Directors to comment on S.B. 346, a bill granting immunity from civil liability for individuals providing volunteer emergency services. This bill would amend AS 09.65.090 by adding a new subsection to Alaska's existing "Good Samaritan" statute.

The Good Samaritan statute promotes an important public policy by encouraging citizens (whether trained professionals or lay persons) to provide medical assistance to people suffering a medical emergency. The statute is particularly important given the ever-increasing tendency to turn to the courts to resolve all problems. While we believe that the protection of volunteers (addressed in the bill) is laudable, we also think the Committee should take this opportunity to address two additional serious health care issues in this area: (1) the liability of "Community Health Aides" providing emergency medical services, and (2) the liability of all persons who have a pre-existing duty to provide emergency services. We discuss these issues below.

Community Health Aides are the backbone of the health care delivery system throughout rural Alaska. In most villages, they are the only health care provider available in emergencies. As a consequence, Community Health Aides across the State feel a special obligation to assist those in need, especially those in

Honorable Chairman Kerttula  
February 17, 1988  
Page 2

need of emergency services, and to do so with whatever training and limited resources they may have.

Community Health Aides have a growing fear that as personal injury tort litigation reaches further into rural Alaska, they will soon be faced with lawsuits. Indeed, this trend has already begun. The Health Aides are particularly concerned about their potential exposure when they administer emergency medical care under circumstances where decisions and actions must be taken immediately, guidance from a physician is unavailable, and a person's life is at stake.

Title 11 currently sets forth general protection for individuals who provide emergency care without first receiving the patient's consent (as where the person is unconscious or otherwise unable to give consent) (AS 11.81.430(a)(5)(B)). The more important statute, however is the section now under scrutiny by this Committee, AS 09.65.090 (emphasis added):

(A) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill or emotionally distraught person who reasonable appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering aid.

(B) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct.

On its face, Section 90 would appear to include Community Health Aides within its scope. Clearly a Community Health Aide would be a "person at a hospital or any other location who renders emergency care ...." In 1971, however, the Alaska Supreme Court construed an earlier version of Section 90 to exclude from coverage any person with a "pre-existing duty" to render aid. Lee v. State, 490 P.2d 1206 (Alaska 1971), overruled in part on other grounds, 545 P.2d 165 (Alaska 1976). A Community Health Aide acting in his or her capacity as a Health Aide would apparently have a pre-existing duty, and under Lee would not be shielded from suit.

The earlier statute construed by the Court in Lee covered "[a] person who, without expecting compensation, renders care to an injured or sick person ...." AS 09.65.090 (1968). Amendment of the law in 1976 to broaden the scope of coverage to "[a] person at a hospital or other location..." reflected the

Honorable Chairman Kerttula  
February 17, 1988  
Page 3

Legislature's intent to include persons with a pre-existing duty (such as nurses and doctors in a hospital emergency). The legislative history to the 1976 amendment confirms this point. Despite the Legislature's effort, the courts continue to exclude "pre-existing duty" persons from Alaska's Good Samaritan statute, as demonstrated in a very recent decision from the federal district court in Alaska. See Bunting v. United States, 662 F.Supp. 971, 973 (D.Alaska 1987). For this reason, it is clear that Section 90 requires further amendment.

We note that Alaska has adopted a separate "good samaritan" statute to specifically protect emergency medical technicians (See AS 18.08.086(a)). This statute was amended in 1986 to broaden its scope to cover emergencies posing risks of serious harm (in addition to risks of death). As we understand it, much of the genesis for this statute and its 1986 amendment was concern over increasing tort litigation arising out of emergency situations where snap decisions must be made in order to save a person's life. The increased risk of litigation has in turn driven up insurance rates astronomically in recent years for emergency medical technicians, an additional strong incentive for this law and its 1986 amendment.

The situation with Community Health Aides is even more compelling than with emergency medical technicians and, we believe, justifies identical treatment by the Alaska Legislature. Specifically, Community Health Aides are required in identical circumstances to provide emergency aid as the only emergency care responders in their villages. In these villages there is no "emergency medical technician." Many (although not all) CHA's have taken EMT courses to enhance their ability to respond in such situations. Nevertheless, we are seeing a rising incidence of litigation and the threat of litigation in recent years. This has led to the same insurance crises for CHA's as for EMTs.

For these reasons, we suggest that this Committee clarify the Good Samaritan law in two ways. First, language should be inserted in Section 90(a) to expressly include Community Health Aides. Second, language should be inserted in the same section to expressly protect persons with a pre-existing duty. Under this proposal, Section 90(a) would be amended as follows, (new language underscored) (before addition of the language proposed in S.B. 340):

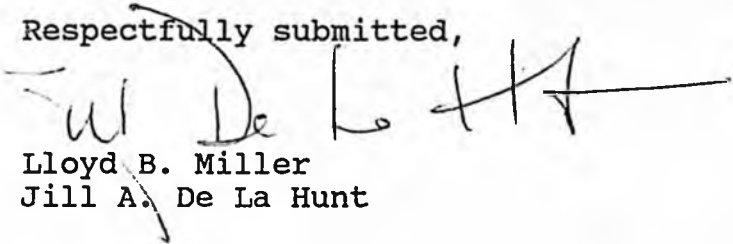
(A) a person at a hospital or any other location, including a community health aide, who renders emergency care or emergency counseling to an injured, ill or emotionally distraught person who reasonably appears to the

Honorable Chairman Kerttula  
February 17, 1988  
Page 4

person rendering the aide to be in immediate need of emergency aide in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering aid, regardless of whether the person is under a pre-existing duty to render assistance.

We would be happy to elaborate at greater length the reasons why this amendment is so important and appropriate, and to furnish you with any additional information which you feel would be helpful.

Respectfully submitted,



Lloyd B. Miller  
Jill A. De La Hunt

LBM:JAD/kg  
cc: Elizabeth Kerttula  
All Committee Members  
Kerttula

LAW OFFICES  
SONOSKY, CHAMBERS, SACHSE & MILLER  
SUITE 700  
900 WEST FIFTH AVENUE  
ANCHORAGE, ALASKA 99501



Honorable Chairman Jalmar Kerttula  
Senate Committee on Judiciary  
State Capitao1 Building  
P. O. Bcx V (Mail Stop 3100)  
Juneau, AK 99811



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: 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. Meunier* 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)

# 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

Valdez, Sup. Ct. Op. No. 2243 (File No. 4451), 620 P.2d 683 (1980).

When there was no evidence before the superior court suggesting that a city's warning of safety hazards was issued with a knowing or reckless disregard for the truth of the statements if contained that communication was protected by a privilege extended to administrative officers making defamatory communications required or permitted in the performance of official duties even though there was no immunity under this section. *Urethane Specialties, Inc. v. City of Valdez*, Sup. Ct. Op. No. 2243 (File No. 4451), 620 P.2d 683 (1980).

**City's failure to follow own rules governing relations with employees.** — This section does not immunize city from liability for damages resulting from its failure to follow its own rules governing its relations with its employees. *Stanfill v. City of Fairbanks*, Sup. Ct. Op. No. 2624 (File No. 6321), P.2d (1983).

**Negligence in operation of ambulance.** — The object to be accomplished by ambulance service operated and main-

tained by a city, that of service to the infirm, was so closely related to hospitalization benefits that it could be said to come within the scope of the opinion in *Tuengel v. City of Sitka*, 118 F. Supp. 399 (D. Alas. 1954), *aff'd*, 245 F.2d 61 (9th Cir. 1957), and the city could be held liable for any negligence in the operation of the ambulance. *Lucas v. City of Juneau*, 168 F. Supp. 195 (D. Alas. 1958).

**Negligence of fire department.** — For case decided prior to second 1975 amendment holding that a city which maintained a fire department could be held liable for injuries resulting from negligence connected with the department's firefighting activities, see *City of Fairbanks v. Shaible*, Sup. Ct. Op. No. 97 (File Nos. 112, 113), 375 P.2d 201 (1962). See *contra*: *City of Fairbanks v. Gilbertson*, 16 Alaska 590 (1957), *aff'd*, 262 F.2d 734 (9th Cir. 1959), where § 56-2-2 ACCLA 1949 (predecessor to this section) was ignored by both the district court and the court of appeals.

Quoted in *Atkinson v. Haldane*, Sup. Ct. Op. No. 1495 (File No. 2981), 569 P.2d 151 (1977).

**Collateral references.** — Fire departments as pertaining to the governmental or to the proprietary branch of municipality, 9 ALR 143; 33 ALR 688; 84 ALR 514.

**Necessity of consent to suit against state**, 42 ALR 1464; 50 ALR 1408.

**Municipal immunity from liability for torts**, 120 ALR 1376; 60 ALR2d 1198.

**Sec. 09.65.080. Suits by incorporated units of local government.** An action may be maintained by an incorporated borough, city, or other public corporation of like character in its corporate name, and upon a cause of action accruing to it in its corporate character

- (1) upon a contract made with the public corporation;
- (2) upon a liability prescribed by law in favor of the public corporation;
- (3) to recover a penalty or forfeiture given to the public corporation;
- (4) to recover damages for an injury to the corporate rights or property of the public corporation. (§ 2 ch 23 SLA 1964)

**Sec. 09.65.090. Civil liability for emergency aid.** (a) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.

(b) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct. (§ 1 ch 32 SLA 1967; am § 1 ch 119 SLA 1971; am § 38 ch 102 SLA 1976)

#### NOTES TO DECISIONS

**Common law.** — At common law there is no duty to rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

The law has persistently refused to recognize the moral obligation of common decency and common humanity, to come to the aid of another human being who is in danger. Only in certain limited situations, as for example where the actor was responsible for placing the imperiled person in his endangered position, has a duty been recognized. However, once rescue operations have begun, the rescuer is held to a duty of due care. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

The purpose of this section is to induce voluntary rescue by removing the fear of potential liability which acts as an impediment to such rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

This section is directed at persons who are not under some preexisting

duty to rescue. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

A rescuer under a preexisting duty to rescue would not need the added inducement of immunity from civil liability for his ordinary negligence. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

**Such as a police officer.** — A holding that police officers have no duty to rescue would not comport with public conceptions of their role. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

This section, the Alaska Good Samaritan statute, does not shield a police officer from liability for ordinary negligence. *Lee v. State*, Sup. Ct. Op. No. 749 (File No. 1395), 490 P.2d 1206 (1971), overruled on other grounds, *Munroe v. City Council*, Sup. Ct. Op. No. 1236 (File No. 2382), 545 P.2d 165, 547 P.2d 839 (1976).

**Sec. 09.65.092. Civil liability for voluntary aircraft safety inspection.** An aircraft or power plant technician or mechanic certified by the Federal Aviation Administration who participates without compensation in a voluntary aircraft safety inspection program is not liable for civil damage resulting from an act or omission arising out of an aircraft safety inspection in that program unless the act or omission constitutes gross negligence or reckless or intentional misconduct. (§ 1 ch 3 SLA 1982)

**Sec. 09.65.095. Liability for administration of blood test.** (a) No civil or criminal action arising out of battery may be brought against a health care provider for the act of taking a blood sample if the sample

BILL NO:

SB 346

DATE:

1/22/88

TITLE:

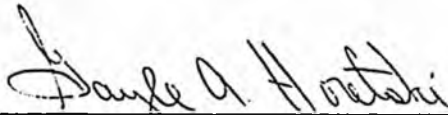
An Act Granting Immunity  
From Civil Liability For  
Providing Volunteer  
Emergency Services.

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.



for Arthur English, Commissioner

FOR THE

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 346

REQUEST  
Revision Date: \_\_\_\_\_  
Title: "An Act Granting immunity ... for providing ... emergency services."  
Sponsor: Sen. Fahrenkarp, etc.  
Requestor: \_\_\_\_\_

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

Phone: 269-5691  
Date: 1/22/88

Approved by Commissioner: Arthur E. English *(Signature)*  
Agency: Public Safety

Date: 1/22/88

Distribution: (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary



SEWARD VOLUNTEER AMBULANCE CORPS

P. O. BOX 1136  
SEWARD, ALASKA 99864

N

FUT

FEB 26 1988

February 4, 1988

Senate of the State of Alaska  
Pouch "V"  
Juneau, Ak. 99811

Attn: Senator Fahrenkamp

Re: Senate Bill No. 346

We the undersigned, as members of Seward Volunteer Ambulance Corps. or as concerned citizens of our community do hereby support and request passage of Senate Bill No. 346 into law.

Dated and Signed in Seward, Alaska, this 23 day of February 1988.

- |                                    |                             |
|------------------------------------|-----------------------------|
| 1. <i>Richard W. Moore</i>         | 17. <i>Mark Z. Beab RN</i>  |
| 2. <i>William F. Lightner</i>      | 18. <i>Eitel O. Hardy</i>   |
| 3. <i>Mortimer J. Lightner</i>     | 19. <i>Susan J. Simola</i>  |
| 4. <i>Phil C. Jilstone</i>         | 20. <i>Deborah Lincoln</i>  |
| 5. <i>M. Donald Baker</i>          | 21. <i>Charles M. Peter</i> |
| 6. <i>Jean E. Cripps</i>           | 22.                         |
| 7. <i>E. Rollison</i>              | 23.                         |
| 8. <i>Leonard C. Mimmor</i>        | 24.                         |
| 9. <i>Les D. ...</i>               | 25.                         |
| 10. <i>H. E. ...</i>               | 26.                         |
| 11. <i>Michael Mittone</i>         | 27.                         |
| 12. <i>Kent Ball</i>               | 28.                         |
| 13. <i>Christine Cozart Shuler</i> | 29.                         |
| 14. <i>Rhonda Berklund</i>         | 30.                         |
| 15. <i>Walt ...</i>                | 31.                         |
| 16. <i>Darrell ...</i>             | 32.                         |



SEWARD VOLUNTEER AMBULANCE CORPS

P. O. BOX 1136  
SEWARD, ALASKA 99664

February 4, 1988

Senate of the State of Alaska  
Pouch "V"  
Juneau, Alaska 99811

Attn: Senator Fahrenkamp

Re: Senate Bill No. 346

Please be it known that we the undersigned are members of the Board of Directors for Seward Volunteer Ambulance Corps. and hereby support and recommend Senate Bill No. 346 for approval and passage into law.

Dated and Signed this 23 day of February, 1988 in Seward, Alaska.

1. *Michael H. Moore*  
Mike Moore, President

2.  
Patty Krasnansky, V.P.

3. *Jean Cripps*  
Jean Cripps, Treasurer

4. *April Tillotson*  
April Tillotson, Secretary

5. *Jerry Tuthill*  
Jerry Tuthill, Board Member

6. *Lloyd McCauley*  
Lloyd McCauley, Board Member

7. *Rhonda Berklund*  
Rhonda Berklund, Board Member



**NATIONAL SKI PATROL SYSTEM, INC.**  
**ALASKA DIVISION**

.....DIVISION

.....TITLE

101 College Road  
Fairbanks, Alaska  
January 16, 1988

Senator Bettye Fahrenkamp  
Fairbanks Legislative Delegation  
Fairbanks, Alaska

Dear Bettye:

Re: Senate Bill # 346

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



HEADQUARTERS  
ALASKA WING, CIVIL AIR PATROL  
AUXILIARY OF THE UNITED STATES AIR FORCE  
P.O. Box 101838  
ANCHORAGE, ALASKA  
99510

JAN 29 1988

25 Jan 1988

Sen Bettye Fahrenkamp  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811


Dear Senator Fahrenkamp:

I would like to extend my appreciation for the fine work that you have done in regards to the Good Samaritan law. During this time of continued emphasis on the liability aspects of everything in our society, it is a welcome relief to those of us in Search and Rescue to have some form of protection.

The Civil Air Patrol, as well as many other organizations in our state, have long been concerned about the potential for devastating law suits. Such suits could effectively eliminate the potential for saving the lives of distressed Alaskans.

During 1987 the Civil Air Patrol saved over 46 lives and assisted in the saving of another 53. I mention this only to point out the exposure that our volunteers have in a years time. The CAP does its best to assure that the people that we work with receive the best possible care and have the minimum amount of exposure to hazardous environment. Still there has always been that concern about possible litigation lurking in the background. It is hoped that your bill will minimize that concern.

Sincerely,

  
TROY SULLIVAN, COL, CAP  
Commander

September 29, 1987

The Honorable Bettye Fahrenkamp  
Alaska State Senate  
515 7th Ave., Suite 130  
Fairbanks, Alaska 99701

Dear Bettye:

I am writing to inquire if you might be willing to help remedy a statutory situation that appears to penalize volunteer first aid people who attempt to help others. In terms of qualifications and statutory protection for First Aid people, there appear to be three major groups:

(1) Emergency Medical Technicians (EMTs), Emergency Trauma Technicians (ETTs), and paramedics who are certified by the state and are protected in liability questions by AS 18.08.086 or AS 08.64.366.

(2) Other non-state certified first-aiders who work with volunteer rescue groups such as National Ski Patrol, Civil Air Patrol, Mountain Rescue groups, etc. Most of these people are trained at levels ranging from the American Red Cross Advanced First Aid Course, CPR course, to near EMT level training such as that now required for National Ski Patrol. These people, though required in their volunteer capacity to render first aid, apparently do not enjoy any statutory protection from liability actions.

(3) Ordinary citizens, trained or untrained, who try to help in emergency situations. These people are protected by the Good Samaritan Act (AS 09.65.090)

At the present time, I serve as a volunteer for both National Ski Patrol and Civil Air Patrol as well as being a first aid and CPR instructor. I learned for the first time this fall that my efforts to assist others have apparently earned me the distinction of being totally unprotected from legal action, unless I independently carry liability insurance in the amount of several million dollars. Our own ski patrol attorneys (attached correspondence) seem to concur with my assessment of the situation. Our Alaska Supreme Court has ruled that the Good Samaritan Act does not apply to those who have a "pre-existing obligation to assist individuals in danger." Clearly, volunteer first aid and rescue people have a pre-existing obligation, and thus my plea for your help in changing this unfair situation.

What to do about the situation? I understand that New Jersey came to grips with the problem by amending their Good

Samaritan Act to include language such as the following  
(taken from attached literature from NSPS legal advisor).

Excerpted from NJSA 2A: 53A-12

" No member of a volunteer first aid, rescue, or emergency squad, which provides emergency public first aid and rescue services shall be liable in any civil action to respond in damages as a result of his acts of commission or omission arising out of and in the course of his rendering in good faith any such services as such member.

Nothing herein shall be deemed to grant any such immunity to any person causing damage by his willful or wanton act of commission or omission.

This act shall take effect immediately."

Do you suppose it would be possible to amend one of the Alaska statutes in a similar manner to achieve protection for our own volunteer rescue teams? Perhaps in drafting the existing statutes the trained volunteers somehow fell through the cracks. We would certainly be grateful for your assistance in remedying the injustice of this unfortunate situation.

Please do not hesitate to contact me if I can be of help in providing additional information. I appreciate your consideration of this request.

Sincerely,

*Thomas E. Smith*  
Thomas E. Smith

474- 7148 (W)

Position Paper

SB 346

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 provides immunity from liability only 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.

Impact of Bill

This legislation increases immunity from liability for volunteer emergency services 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 volunteer emergency services and would decrease the rate of attrition among emergency service workers.

Position

The Department of Health and Social Services supports the intent of this legislation. However, the department recommends that SB 346 be amended to add the following statement:

This subsection does not apply to persons who provide advanced life support medical procedures, including cardiac defibrillation; administration of antiarrhythmic agents, intravenous therapy, or intramuscular therapy; use of esophageal airway devices or endotracheal intubation devices; or other invasive medical procedures, unless the person is authorized by law to perform these procedures.

**POSITION PAPER/Department of Health & Social Services**

Position Paper, SB 346, pg. 2

Recommended by:

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

Date:

February 26, 1988

Approved by:

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

Date:

Feb 29, 1988

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act granting immunity  
from civil liability for...  
Sponsor: Fahrenkamp 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 SB 346 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: \_\_\_\_\_

Approved by Commissioner: Mary He Munson *Mary He Munson* Date: Jan 25, 1988  
Agency: Department of Health & Social Services

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)