

As Introduced

**124th General Assembly
Regular Session
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S. B. No. 115

SENATORS Hottinger, Coughlin, Blessing

A B I L L

To amend sections 9.60, 146.01, 146.12, 3737.03, 1
3737.81, and 4765.49 and to enact section 124.139 2
of the Revised Code to provide limited civil 3
immunity for Ohio Fire Academy instructors, to 4
provide that the State Fire Marshal's Office is a 5
fire department for purposes of allowing a 6
qualified team from the Ohio Fire Academy to assist 7
with local fire suppression and emergencies, to 8
provide for paid leave for service as a volunteer 9
firefighter or emergency medical services worker, 10
to increase the benefits to survivors of volunteer 11
firefighters, and to statutorily authorize the 12
State Fire Commission's maintenance of the Ohio 13
Fire Services Hall of Fame and the payment of 14
associated recognition and commemoration expenses 15
with state moneys. 16

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.60, 146.01, 146.12, 3737.03, 17
3737.81, and 4765.49 be amended and section 124.139 of the Revised 18
Code be enacted to read as follows: 19

Sec. 9.60. (A) As used in this section: 20

(1) "Emergency medical service" and "emergency medical service organization" have the same meanings as in section 4765.01 of the Revised Code.

(2) "Fire protection" means the use of firefighting equipment by the fire department of a firefighting agency or a private fire company, and includes the provision of ambulance, emergency medical, and rescue services by those entities.

(3) "Firefighting agency" means a municipal corporation, township, township fire district, joint ambulance district, joint emergency medical services district, or joint fire district and the office of the state fire marshal.

(4) "Private fire company" means a nonprofit group or organization owning and operating firefighting equipment not controlled by a firefighting agency.

(B) Any firefighting agency, private fire company, or public or private emergency medical service organization may contract with any governmental entity in this state or another jurisdiction to provide fire protection or emergency medical services, as appropriate, whether on a regular basis or only in times of emergency, upon the approval of the governing boards or administrative heads of the entities that are parties to the contract.

(C) Any governmental entity in this state may contract with any firefighting agency, private fire company, or public or private emergency medical service organization of this state or another jurisdiction to obtain fire protection or emergency medical services, as appropriate, whether on a regular basis or only in times of emergency, upon the approval of the governing boards or administrative heads of the entities that are parties to the contract.

(D) Any firefighting agency, private fire company, or public

or private emergency medical service organization may provide fire
protection or emergency medical services, as appropriate, to any
governmental entity in this state or another jurisdiction, without
a contract to provide fire protection or emergency medical
services, upon the approval of the governing board of the agency,
company, or organization and upon authorization by an officer or
employee of the agency, company, or organization designated by
that individual's title, office, or position pursuant to the
authorization of the governing board of the agency, company, or
organization.

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(E) Chapter 2744. of the Revised Code, insofar as it is
applicable to the operation of fire departments or emergency
medical service organizations, applies to a political subdivision
that is operating a fire department or emergency medical service
organization, and to the members of the fire department or
emergency medical service organization, when the members are
rendering service pursuant to this section outside the boundaries
of the political subdivision.

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Members acting outside the boundaries of the political
subdivision that is operating the fire department or emergency
medical service organization may participate in any pension or
indemnity fund established by the political subdivision to the
same extent as while acting within the boundaries of the political
subdivision, and are entitled to all the rights and benefits of
Chapter 4123. of the Revised Code, to the same extent as while
performing service within the boundaries of the political
subdivision.

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(F) A private fire company or private, nonprofit emergency
medical service organization providing service pursuant to this
section to a governmental entity in this state or another
jurisdiction has the same immunities and defenses in a civil
action that a political subdivision has under section 2744.02 of

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the Revised Code. The employees of such a fire company or 84
emergency medical service organization have the same immunities 85
and defenses in a civil action that employees of a political 86
subdivision have under section 2744.03 of the Revised Code. 87

Sec. 124.139. (A) As used in this section: 88

(1) "Emergency medical service," "EMT-basic," "EMT-I," "first 89
responder," and "paramedic" have the same meanings as in section 90
4765.01 of the Revised Code. 91

(2) "Volunteer firefighter" has the same meaning as in 92
section 146.01 of the Revised Code. 93

(B) A state employee who is an EMT-basic, EMT-I, first 94
responder, paramedic, or volunteer firefighter shall receive forty 95
hours of leave with pay each calendar year to use during those 96
hours when the employee is absent from work in order to provide 97
emergency medical service or fire-fighting service. An appointing 98
authority shall compensate an employee who uses leave granted 99
under this section at the employee's regular rate of pay for those 100
regular work hours during which the employee is absent from work. 101

Sec. 146.01. As used in sections 146.01 to 146.19 of the 102
Revised Code: 103

(A) "Fire department" means a volunteer fire department, a 104
fire department of a political subdivision or fire district of 105
this state, or a private volunteer company that has elected to 106
participate in the volunteer fire fighters' dependents fund 107
pursuant to section 146.02 of the Revised Code. 108

(B)(1) "Volunteer firefighter" means both of the following, 109
subject to division (B)(2) of this section: 110

(a) A duly appointed member of a fire department on either a 111
nonpay or part-pay basis who is ineligible to be a member of the 112

Ohio police and fire pension fund, or whose employment as a firefighter does not in itself qualify any such person for membership in the public employees retirement system, or who has waived membership in the public employees retirement system;

(b) Firefighters drafted, requisitioned, or appointed to serve in an emergency.

(2)(a) A volunteer firefighter who is a member of the public employees retirement system shall be considered a volunteer firefighter for purposes of this chapter, and in particular, for purposes of divisions (A) and (B) of section 146.12 of the Revised Code until the firefighter has at least one and one-half years of Ohio service credit for purposes of division (B) of section 145.45 of the Revised Code;

(b) A volunteer firefighter who is a member of the public employees retirement system shall be considered a volunteer firefighter for purposes of this chapter and, in particular, for purposes of division (C) of section 146.12 of the Revised Code until the firefighter has at least five years of total service credit for purposes of sections 145.35 and 145.36 or section 145.361 of the Revised Code.

(C) "Private volunteer fire company" means a company of trained volunteer firefighters having a contract to furnish fire protection or emergency service or both to a political subdivision or fire district of this state.

(D) "Member of the fund" includes a political subdivision or fire district of this state that maintains in whole or in part a volunteer fire department or employs volunteer firefighters, and a private volunteer fire company that has elected to participate in the volunteer fire fighters' dependents fund.

(E) "Dependent" means the surviving spouse or child ~~under eighteen years of age~~ of a volunteer firefighter regardless of

financial status. 144

(F) "Volunteer fire fighters' dependents fund" means the fund 145
established by section 146.07 of the Revised Code. 146

(G) "Totally and permanently disabled" means that a volunteer 147
firefighter is unable to engage in any substantial gainful 148
employment for a period of not less than twelve months by reason 149
of a medically determinable physical impairment that is permanent 150
or presumed to be permanent. 151

Sec. 146.12. Benefits shall be paid from the volunteer fire 152
fighters' dependents fund to or on behalf of the following 153
persons: 154

(A) To the surviving spouse of a volunteer ~~fire fighter~~ 155
firefighter killed while discharging the duties of a volunteer 156
~~fire fighter~~ firefighter or who dies from exposure or injury 157
received while in the discharge of ~~such~~ those duties, a lump sum 158
award of one thousand dollars, and, in addition, the sum of ~~two~~ 159
three hundred dollars per month so long as the surviving spouse 160
does not remarry; 161

(B) To the parent, guardian, or other persons upon whom a 162
child of a volunteer ~~fire fighter~~ firefighter is dependent for 163
chief support, the sum of ~~sixty-five~~ one hundred twenty-five 164
dollars per month for each dependent child ~~of such volunteer fire~~ 165
~~fighter. Such payments shall continue until the dependent child is~~ 166
~~eighteen years old under eighteen years of age, or under~~ 167
twenty-three years of age if the child is attending a 168
post-secondary educational institution designed to complete in 169
each school year the equivalent of at least two-thirds of the 170
full-time curriculum requirements of the institution. 171

(C) To a volunteer ~~fire fighter~~ firefighter, totally and 172
permanently disabled while discharging the duties of a volunteer 173
~~fire fighter~~ firefighter, the sum of two hundred dollars per 174

month. No payment shall be made to a volunteer ~~fire fighter~~ 175
~~firefighter~~ under full salary during the time of ~~his~~ the volunteer 176
firefighter's disability. 177

Sec. 3737.03. The state fire commission may do all of the 178
following: 179

(A) Conduct research, make and publish reports on fire 180
safety, and recommend to the governor, the general assembly, the 181
board of building standards, and other state agencies, any needed 182
changes in the laws, rules, or administrative policies relating to 183
fire safety; 184

(B) Recommend revisions in the rules included in the state 185
fire code adopted by the fire marshal. The recommendations may 186
propose the adoption of new rules or the amendment or repeal of 187
existing rules. The commission shall file its recommendations in 188
the office of the fire marshal, and, within sixty days after the 189
recommendations are filed, the fire marshal shall file with the 190
~~chairman~~ chairperson of the commission ~~his~~ the fire marshal's 191
comments on, and proposed action in response to, the 192
recommendations. 193

(C) Maintain the Ohio fire service hall of fame to recognize 194
and commemorate exemplary accomplishments and acts of heroism by 195
firefighters and other persons at fire-related incidents or 196
similar events occurring in the state. The commission may adopt 197
criteria and guidelines for selecting individuals for that 198
recognition and commemoration. The recognition and commeration 199
of individuals may occur annually and include an annual awards 200
ceremony in conjunction with a banquet or dinner hosted by the 201
commission with the assistance of the fire marshal. The expenses 202
associated with the recognition and commemoration of individuals 203
shall be paid in accordance with division (F) of section 3737.81 204
of the Revised Code. 205

Sec. 3737.81. (A) There is hereby created the state fire 206
commission consisting of ten members to be appointed by the 207
governor with the advice and consent of the senate. The fire 208
marshal or ~~his~~ fire marshal's chief deputy, a representative 209
designated by the department of public safety who has tenure in 210
fire suppression, and a representative designated by the board of 211
building standards shall be ex officio members. Of the initial 212
appointments made to the commission, two shall be for a term 213
ending one year after ~~the effective date of this section~~ November 214
1, 1978, two shall be for a term ending two years after that date, 215
two shall be for a term ending three years after that date, two 216
shall be for a term ending four years after that date, and two 217
shall be for a term ending five years after that date. Thereafter, 218
terms of office shall be for five years, each term ending on the 219
same day of the same month of the year as did the term which it 220
succeeds. Each member shall hold office from the date of ~~his~~ 221
appointment until the end of the term for which ~~he~~ the member was 222
appointed. Any member appointed to fill a vacancy occurring prior 223
to the expiration of the term for which ~~his~~ the member's 224
predecessor was appointed shall hold office for the remainder of 225
~~such~~ that term. Any member shall continue in office subsequent to 226
the expiration date of ~~his~~ the member's term until ~~his~~ a successor 227
takes office, or until a period of sixty days has elapsed, 228
whichever occurs first. Members shall be qualified by experience 229
and training to deal with the matters that are the responsibility 230
of the commission. Two members shall be members of paid fire 231
services, one shall be a member of volunteer fire services, two 232
shall be mayors, managers, or members of legislative authorities 233
of ~~municipalities~~ municipal corporations, one shall represent 234
commerce and industry, one shall be a representative of a fire 235
insurance company domiciled in this state, one shall represent the 236
flammable liquids industry, one shall represent the construction 237

industry, and one shall represent the public. At no time shall 238
more than six members be members of or associated with the same 239
political party. Membership on the commission shall not constitute 240
holding a public office, and no person shall forfeit or otherwise 241
vacate ~~his~~ the person's office or position of employment because 242
of membership on the commission. 243

(B) The ex officio members may not vote, except that the fire 244
marshal or ~~his~~ fire marshal's chief deputy may vote in case of a 245
tie. 246

(C) Each member of the commission, other than ex officio 247
members, shall be paid an amount equal to that payable under pay 248
range 32 (S)(D) fixed pursuant to division (J) of section 124.15 249
of the Revised Code, and ~~his~~ the member's actual and necessary 250
expenses. 251

(D) The commission shall select a ~~chairman~~ chairperson and a 252
~~vice-chairman~~ vice-chairperson from among its members. No business 253
may be transacted in the absence of a quorum. A quorum shall be at 254
least six members, excluding ex officio members, and shall include 255
either the ~~chairman~~ chairperson or ~~vice-chairman~~ vice-chairperson. 256
The commission shall hold regular meetings at least once every two 257
months and may meet at any other time at the call of the ~~chairman~~ 258
chairperson. 259

(E) The fire marshal shall provide the commission with office 260
space, meeting rooms, staff, and clerical assistance necessary for 261
the commission to perform its duties. If the commission maintains 262
the Ohio fire service hall of fame under division (C) of section 263
3737.03 of the Revised Code, the fire marshal shall preserve, in 264
an appropriate manner, in the office space or meeting rooms 265
provided to the commission under this division or in another 266
location, copies of all official commendations awarded to 267
individuals recognized and commemorated for their exemplary 268
accomplishments and acts of heroism at fire-related incidents or 269

similar events that occurred in this state. 270

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(F) If the commission maintains the Ohio fire service hall of fame under division (C) of section 3737.03 of the Revised Code, the expenses incurred for the recognition and commemoration of individuals for their exemplary accomplishments and acts of heroism at fire-related incidents or similar events that occurred in this state, including, but not limited to, expenses for official commendations and an annual awards ceremony and associated banquet or dinner as described in division (C) of section 3737.03 of the Revised Code, may be paid from moneys appropriated by the general assembly for purposes of that recognition and commemoration, from moneys that are available to the fire marshal under this chapter and that may be used for purposes of that recognition and commemoration, or from other funding sources available to the commission. 272
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Sec. 4765.49. (A) A first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's administration of emergency medical services, unless the services are administered in a manner that constitutes willful or wanton misconduct. A physician or registered nurse designated by a physician, who is advising or assisting in the emergency medical services by means of any communication device or telemetering system, is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's advisory communication or assistance, unless the advisory communication or assistance is provided in a manner that constitutes willful or wanton misconduct. Medical directors and members of cooperating physician advisory boards of emergency medical service organizations are not 286
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liable in damages in a civil action for injury, death, or loss to 302
person or property resulting from their acts or omissions in the 303
performance of their duties, unless the act or omission 304
constitutes willful or wanton misconduct. 305

(B) A political subdivision, joint ambulance district, joint 306
emergency medical services district, or other public agency, and 307
any officer or employee of a public agency or of a private 308
organization operating under contract or in joint agreement with 309
one or more political subdivisions, that provides emergency 310
medical services, or that enters into a joint agreement or a 311
contract with the state, any political subdivision, joint 312
ambulance district, or joint emergency medical services district 313
for the provision of emergency medical services, is not liable in 314
damages in a civil action for injury, death, or loss to person or 315
property arising out of any actions taken by a first responder, 316
EMT-basic, EMT-I, or paramedic working under the officer's or 317
employee's jurisdiction, or for injury, death, or loss to person 318
or property arising out of any actions of licensed medical 319
personnel advising or assisting the first responder, EMT-basic, 320
EMT-I, or paramedic, unless the services are provided in a manner 321
that constitutes willful or wanton misconduct. 322

(C) A student who is enrolled in an emergency medical 323
services training program accredited under section 4765.17 of the 324
Revised Code or an emergency medical services continuing education 325
program approved under that section is not liable in damages in a 326
civil action for injury, death, or loss to person or property 327
resulting from either of the following: 328

(1) The student's administration of emergency medical 329
services or patient care or treatment, if the services, care, or 330
treatment is administered while the student is under the direct 331
supervision and in the immediate presence of an EMT-basic, EMT-I, 332
paramedic, registered nurse, or physician and while the student is 333

receiving clinical training that is required by the program, 334
unless the services, care, or treatment is provided in a manner 335
that constitutes willful or wanton misconduct; 336

(2) The student's training as an ambulance driver, unless the 337
driving is done in a manner that constitutes willful or wanton 338
misconduct. 339

(D) An EMT-basic, EMT-I, paramedic, or other operator, who 340
holds a valid commercial driver's license issued pursuant to 341
Chapter 4506. of the Revised Code or driver's license issued 342
pursuant to Chapter 4507. of the Revised Code and who is employed 343
by an emergency medical service organization that is not owned or 344
operated by a political subdivision as defined in section 2744.01 345
of the Revised Code, is not liable in damages in a civil action 346
for injury, death, or loss to person or property that is caused by 347
the operation of an ambulance by the EMT-basic, EMT-I, paramedic, 348
or other operator while responding to or completing a call for 349
emergency medical services, unless the operation constitutes 350
willful or wanton misconduct or does not comply with the 351
precautions of section 4511.03 of the Revised Code. An emergency 352
medical service organization is not liable in damages in a civil 353
action for any injury, death, or loss to person or property that 354
is caused by the operation of an ambulance by its employee or 355
agent, if this division grants the employee or agent immunity from 356
civil liability for the injury, death, or loss. 357

(E) An employee or agent of an emergency medical service 358
organization who receives requests for emergency medical services 359
that are directed to the organization, dispatches first 360
responders, EMTs-basic, EMTs-I, or paramedics in response to ~~such~~ 361
those requests, communicates ~~such~~ those requests to those 362
employees or agents of the organization who are authorized to 363
dispatch first responders, EMTs-basic, EMTs-I, or paramedics, or 364
performs any combination of these functions for the organization, 365

is not liable in damages in a civil action for injury, death, or 366
loss to person or property resulting from the individual's acts or 367
omissions in the performance of those duties for the organization, 368
unless an act or omission constitutes willful or wanton 369
misconduct. 370

(F) A person who is performing the functions of a first 371
responder, EMT-basic, EMT-I, or paramedic under the authority of 372
the laws of a state that borders this state and who provides 373
emergency medical services to or transportation of a patient in 374
this state is not liable in damages in a civil action for injury, 375
death, or loss to person or property resulting from the person's 376
administration of emergency medical services, unless the services 377
are administered in a manner that constitutes willful or wanton 378
misconduct. A physician or registered nurse designated by a 379
physician, who is licensed to practice in the adjoining state and 380
who is advising or assisting in the emergency medical services by 381
means of any communication device or telemetering system is not 382
liable in damages in a civil action for injury, death, or loss to 383
person or property resulting from the person's advisory 384
communication or assistance, unless the advisory communication or 385
assistance is provided in a manner that constitutes willful or 386
wanton misconduct. 387

(G) A person certified under section 4765.23 of the Revised 388
Code to teach in an emergency medical services training program or 389
emergency medical services continuing education program, and a 390
person who teaches at the Ohio fire academy established under 391
section 3737.33 of the Revised Code or in a fire service training 392
program described in division (B) of section 4765.55 of the 393
Revised Code, is not liable in damages in a civil action for 394
injury, death, or loss to person or property resulting from the 395
person's acts or omissions in the performance of the person's 396
duties, unless an act or omission constitutes willful or wanton 397

misconduct. 398

(H) In the accreditation of emergency medical services 399
training programs or approval of emergency medical services 400
continuing education programs, the state board of emergency 401
medical services and any person or entity authorized by the board 402
to evaluate applications for accreditation or approval are not 403
liable in damages in a civil action for injury, death, or loss to 404
person or property resulting from their acts or omissions in the 405
performance of their duties, unless an act or omission constitutes 406
willful or wanton misconduct. 407

(I) A person authorized by an emergency medical service 408
organization to review the performance of first responders, 409
EMTs-basic, EMTs-I, and paramedics or to administer quality 410
assurance programs is not liable in damages in a civil action for 411
injury, death, or loss to person or property resulting from the 412
person's acts or omissions in the performance of the person's 413
duties, unless an act or omission constitutes willful or wanton 414
misconduct. 415

Section 2. That existing sections 9.60, 146.01, 146.12, 416
3737.03, 3737.81, and 4765.49 of the Revised Code are hereby 417
repealed. 418

Section 3. This act shall be known as the "Fire Marshal 419
Modernization Act." 420