

131st Legislature
Senate of
Maine
Senate District 24

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Testimony of Senator Eloise Vitelli introducing
LD 783, An Act to Protect Certain Private Emergency Services Personnel
from Liability Under the Maine Tort Claims Act
Before the Joint Standing Committee on Judiciary
April 6, 2023

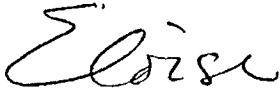
Senator Carney, Representative Moonen, and Esteemed Members of the Joint Standing Committee on Judiciary, my name is Eloise Vitelli, and I proudly represent Senate District 24, which includes all of Sagadahoc County and Dresden. Today I am pleased to introduce my bill LD 783, “An Act to Protect Certain Private Emergency Services Personnel from Liability Under the Maine Tort Claims Act.”

Last year, Bath Iron Works contacted me and asked if I would submit this legislation. I agreed because I see this bill as a “good neighbor” policy. If the City of Bath – or any municipality – has an emergency and BIW – or any private entity – sends their EMS personnel to help, then the State should provide limited liability protection. Within the past few years, BIW has sent its emergency services personnel to help with two serious incidents in Bath. In the first case, Maine Maritime Museum’s historic *Mary E* schooner capsized on the Kennebec River. BIW security boats helped rescue the passengers from the water. In fact, one of the BIW security boats was the first vessel to reach the site and start rescuing people. In the second case, Dike Newell Elementary School caught on fire – not once, but twice within the same week. BIW had specialized oxygen tanks which allowed its EMS personnel to go into the building; whereas, the City of Bath lacked such equipment. Without the tanks, no one would have been able to enter the building without putting themselves at serious risk.

During emergencies, whether it’s a boat capsizing or a school catching on fire, response time is critical. BIW’s EMS personnel were able to respond quickly – sometimes being the first to arrive – and were able to provide specialized equipment that the City of Bath did not have. When BIW, or any private entity, acts like a good neighbor, then it or they should not have to worry about a liability claim.

I’m not an expert in liability laws or the Maine Tort Claims Act, but I hope that this Committee and legal representatives from BIW can take a closer look at this proposal. I’d also like to note that you all should have received an amendment for this bill. I’m hopeful that it will help address some of the potential concerns for this legislation.

Thank you for your consideration and time, I will do my best to answer any questions you may have.

A handwritten signature in cursive script, appearing to read "Eloise".

Eloise Vitelli

Senate Majority Leader, Senate District 24
Sagadahoc County and Dresden

Sen. Vilelli

LD 783 Amendment
Bath Iron Works
April 4, 2023

LD 783, An Act to Protect Certain Private Emergency Services Personnel from Liability Under the Maine Tort Claims Act

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §8102, sub-§1, as amended by PL 2003, c. 489, §1, is repealed and the following enacted in its place:

1. Employee. "Employee" means a person acting on behalf of a governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including:

A. Elected or appointed officials;

B. Volunteer firefighters as defined in Title 30-A, section 3151, subsection 4;

C. Emergency medical services personnel, except that a person who is a private firefighter, a private emergency medical services employee or an employee of another private service that provides an emergency response is an employee for purposes of this chapter only if the person is acting without compensation and either at the request of a governmental entity or in response to a life-threatening emergency;

D. Members of the Maine National Guard but only while performing state active service pursuant to Title 37-B;

E. Sheriff's deputies as described in Title 30-A, section 381 when they are serving orders pursuant to section 3135; and

F. Persons while performing a search and rescue activity when requested by a state, county or local governmental entity.

G. Private Fire, Emergency or Other Rescue Units, and their employees, only when acting in a mutual aid response at the request of a state or municipal agency or in response to a life-threatening emergency.

"Employee" does not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.

Sec. 2. 14 MRSA §8102, sub-§1-B is enacted to read:

1-B. Private Fire, Emergency or Other Rescue Units. "Private Fire, Emergency or Other Rescue Units" means an entity performing ship construction and repair services for the United States Government that employs professionally trained firefighting, emergency medical service or other rescue unit personnel and provides mutual aid response at the request of a state or municipal agency or in response to a life-threatening emergency.

Sec. 3. 14 MRSA §8103 is amended to read:

1. Immunity. Except as otherwise expressly provided by statute, all governmental entities shall be immune from suit on any and all tort claims seeking recovery of damages. When immunity is removed by this chapter, any claim for damages shall be brought in accordance with the terms of this chapter.

2. Examples.

3. Personal liability; employee of a governmental entity.

4. Immunity for Private Fire, Emergency or Other Rescue Units. A qualifying entity under §8102, sub-§1-B shall be immune from suit on any and all tort claims seeking recovery of damages arising out of the qualifying entity's provision of mutual aid response at the request of a state or municipal agency or in response to a life-threatening emergency.

SUMMARY

~~This bill specifies that a person who is a private firefighter, a private emergency medical services employee or an employee of another private service that provides an emergency response is an employee for purposes of the Maine Tort Claims Act only under certain conditions. This bill narrowly defines Private Fire, Emergency or Other Rescue Units and specifies that a qualifying entity and its employees are immune under the Maine Tort Claims Act for claims arising out of the provision of mutual aid response at the request of a state or municipal agency or in response to a life-threatening emergency.~~