

HOUSE BILL NO. 938

INTRODUCED BY R. JOHNSON
BY REQUEST OF THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

FEBRUARY 19, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON JUDICIARY.

 FIRST READING.

FEBRUARY 23, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 25, 1991 PRINTING REPORT.

FEBRUARY 26, 1991 SECOND READING, DO PASS.

 ENGROSSING REPORT.

FEBRUARY 27, 1991 THIRD READING, PASSED.
 AYES, 97; NOES, 2.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 4, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON JUDICIARY.

 FIRST READING.

MARCH 14, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

MARCH 16, 1991 SECOND READING, CONCURRED IN.

MARCH 18, 1991 THIRD READING, CONCURRED IN.
 AYES, 49; NOES, 0.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 21, 1991 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS
 CONCURRED IN.

MARCH 23, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. 938
 2 INTRODUCED BY *L. Schwan*
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 4 HEALTH AND ENVIRONMENTAL SCIENCES
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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE LIABILITY
 7 PROTECTION FOR PHYSICIANS SERVING AS OFF-LINE MEDICAL
 8 DIRECTORS FOR EMERGENCY MEDICAL SERVICES, TO PHYSICIANS AND
 9 NURSES WHO GIVE MEDICAL INSTRUCTIONS TO MEMBERS OF EMERGENCY
 10 MEDICAL SERVICES, AND TO MEMBERS OF EMERGENCY MEDICAL
 11 SERVICES WHO FOLLOW THOSE INSTRUCTIONS; DEFINING THE TERM
 12 "OFF-LINE MEDICAL DIRECTOR"; AMENDING SECTION 50-6-302, MCA;
 13 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 50-6-302, MCA, is amended to read:
 17 "50-6-302. Definitions. As used in this part, unless
 18 the context requires otherwise, the following definitions
 19 apply:

- 20 (1) "Aircraft" has the same meaning given in 67-1-101.
 21 The term includes any fixed-wing airplane or helicopter.
- 22 (2) "Ambulance" means a privately or publicly owned
 23 motor vehicle or aircraft that is maintained and used for
 24 the transportation of patients. The term does not include a
 25 motor vehicle or aircraft owned by or operated under the

1 direct control of the United States. The term also does not
 2 include air transportation services, such as charter or
 3 fixed-based operators, regulated by the federal aviation
 4 administration, that offer no special medical services or
 5 provide only transportation to patients or persons at the
 6 direction or under the supervision of an independent
 7 physician.

8 (3) "Board" means the board of health and environmental
 9 sciences, provided for in 2-15-2104.

10 (4) "Department" means the department of health and
 11 environmental sciences, provided for in Title 2, chapter 15,
 12 part 21.

13 (5) "Emergency medical service" means a prehospital or
 14 interhospital emergency medical transportation or treatment
 15 service provided by an ambulance or nontransporting medical
 16 unit.

17 (6) "Medical control" means the function of a licensed
 18 physician in providing direction, advice, or orders to an
 19 emergency medical service provider.

20 (7) "Nontransporting medical unit" means an aggregate
 21 of persons who are organized to respond to a call for
 22 emergency medical service and to treat a patient until the
 23 arrival of an ambulance. Nontransporting medical units
 24 provide any one of varying types and levels of service
 25 defined by department rule but may not transport patients.



1 (8) "Off-line medical director" means a physician who
 2 is responsible and accountable for the overall medical
 3 direction and medical supervision of an emergency medical
 4 service and who is responsible for the proper application of
 5 patient care techniques and the quality of care provided by
 6 the emergency medical services personnel.

7 ~~(8)~~(9) "Patient" means an individual who is sick,
 8 injured, wounded, or otherwise incapacitated or helpless.
 9 The term does not include a person who is nonambulatory and
 10 who needs transportation assistance solely because that
 11 person is confined to a wheelchair as his usual means of
 12 mobility.

13 ~~(9)~~(10) "Person" means an individual, firm, partnership,
 14 association, corporation, company, group of individuals
 15 acting together for a common purpose, or organization of any
 16 kind, including a governmental agency other than the United
 17 States."

18 NEW SECTION. Section 2. Liability protection. (1) A
 19 physician or registered nurse licensed under the laws of
 20 this state who gives instructions for medical care to a
 21 member of an emergency medical service is not liable for
 22 civil damages for an injury resulting from the instructions,
 23 except damages for an injury resulting from the gross
 24 negligence of the physician or nurse, if the instructions
 25 given by the physician or nurse are:

1 (a) consistent with the protocols and the medical
 2 control plan approved by the department in licensing the
 3 emergency medical service; and

4 (b) consistent with the level of certification or
 5 licensure of the emergency medical services personnel
 6 instructed by the physician or nurse.

7 (2) An off-line medical director is not liable for
 8 civil damages for an injury resulting from the performance
 9 of his duties, except damages for an injury resulting from
 10 the gross negligence of the director.

11 (3) A member of an emergency medical service who
 12 renders emergency care according to instructions given the
 13 member by a physician or registered nurse licensed under the
 14 laws of this state is not liable for civil damages for an
 15 injury resulting from the instructions, except damages for
 16 an injury resulting from the gross negligence of the member,
 17 if the member is performing in a manner consistent with his
 18 level of certification, licensure, or training and the
 19 instructions given to the member are consistent with the
 20 protocols and the medical control plan approved by the
 21 department.

22 NEW SECTION. Section 3. Codification instruction.
 23 [Section 2] is intended to be codified as an integral part
 24 of Title 50, chapter 6, part 3, and the provisions of Title
 25 50, chapter 6, part 3, apply to [section 2].

LC 1176/01

1 NEW SECTION. **Section 4. Effective date.** [This act] is
2 effective on passage and approval.

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APPROVED BY COMMITTEE
ON JUDICIARY

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9 AND NURSES WHO GIVE MEDICAL INSTRUCTIONS TO MEMBERS OF
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11 ~~MEDICAL SERVICES WHO FOLLOW THOSE INSTRUCTIONS~~; DEFINING THE
12 TERM "OFF-LINE MEDICAL DIRECTOR"; AMENDING SECTION 50-6-302,
13 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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22 (2) "Ambulance" means a privately or publicly owned
23 motor vehicle or aircraft that is maintained and used for
24 the transportation of patients. The term does not include a
25 motor vehicle or aircraft owned by or operated under the

1 direct control of the United States. The term also does not
2 include air transportation services, such as charter or
3 fixed-based operators, regulated by the federal aviation
4 administration, that offer no special medical services or
5 provide only transportation to patients or persons at the
6 direction or under the supervision of an independent
7 physician.

8 (3) "Board" means the board of health and environmental
9 sciences, provided for in 2-15-2104.

10 (4) "Department" means the department of health and
11 environmental sciences, provided for in Title 2, chapter 15,
12 part 21.

13 (5) "Emergency medical service" means a prehospital or
14 interhospital emergency medical transportation or treatment
15 service provided by an ambulance or nontransporting medical
16 unit.

17 (6) "Medical control" means the function of a licensed
18 physician in providing direction, advice, or orders to an
19 emergency medical service provider.

20 (7) "Nontransporting medical unit" means an aggregate
21 of persons who are organized to respond to a call for
22 emergency medical service and to treat a patient until the
23 arrival of an ambulance. Nontransporting medical units
24 provide any one of varying types and levels of service
25 defined by department rule but may not transport patients.

1 (8) "Off-line medical director" means a physician who
 2 is responsible and accountable for the overall medical
 3 direction and medical supervision of an emergency medical
 4 service and who is responsible for the proper application of
 5 patient care techniques and the quality of care provided by
 6 the emergency medical services personnel. THE TERM DOES NOT
 7 INCLUDE A PHYSICIAN WHO VOLUNTEERS HIS SERVICES AS AN
 8 OFF-LINE MEDICAL DIRECTOR OR WHOSE TOTAL REIMBURSEMENT FOR
 9 THOSE SERVICES IN ANY 12-MONTH PERIOD DOES NOT EXCEED
 10 \$5,000.

11 (9) "Patient" means an individual who is sick,
 12 injured, wounded, or otherwise incapacitated or helpless.
 13 The term does not include a person who is nonambulatory and
 14 who needs transportation assistance solely because that
 15 person is confined to a wheelchair as his usual means of
 16 mobility.

17 (10) "Person" means an individual, firm, partnership,
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22 NEW SECTION. Section 2. Liability protection. (1) A
 23 physician or registered nurse licensed under the laws of
 24 this state who gives instructions for medical care to a
 25 member of an emergency medical service WITHOUT COMPENSATION

1 OR FOR COMPENSATION NOT EXCEEDING \$5,000 IN ANY 12-MONTH
 2 PERIOD AND WHOSE PROFESSIONAL PRACTICE IS NOT PRIMARILY IN
 3 AN EMERGENCY OR TRAUMA ROOM OR WARD is not liable for civil
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 6 negligence of the physician or nurse, if the instructions
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14 (2) An off-line medical director is not liable for
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5 [Section 2] is intended to be codified as an integral part
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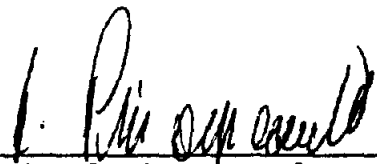
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 14, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 938 (third reading copy -- blue), respectfully report that House Bill No. 938 be amended and as so amended be concurred in.

1. Page 3, lines 6 and 7.
Following: "TERM" on line 6
Strike: "DOES NOT INCLUDE"
Insert: "includes only"

Signed: 
Richard Pinsoneault, Chairman

JAL 3-14-91
App. Coord.

SB 3-14 100
Sec. of Senate

SENATE
HB 938

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