

As Reported by the House Civil Justice Committee

132nd General Assembly

Regular Session

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Sub. H. B. No. 419

Representative Henne

Cosponsors: Representatives Lang, Riedel, Sprague

A BILL

To amend section 2744.01 of the Revised Code to
modify the definition of "emergency call" for
purposes of the defense to the liability of a
member of a police department for the negligent
operation of a motor vehicle in response to an
emergency.

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

Section 1. That section 2744.01 of the Revised Code be
amended to read as follows:

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Sec. 2744.01. As used in this chapter:

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(A) "Emergency call" means a call to duty, ~~including, but~~
~~not limited to, communications from citizens, police dispatches,~~
~~and personal observations by peace officers of~~ involving any
reported or observed inherently dangerous situations that demand
an immediate response on the part of a peace officer.

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(B) "Employee" means an officer, agent, employee, or
servant, whether or not compensated or full-time or part-time,
who is authorized to act and is acting within the scope of the
officer's, agent's, employee's, or servant's employment for a

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political subdivision. "Employee" does not include an 19
independent contractor and does not include any individual 20
engaged by a school district pursuant to section 3319.301 of the 21
Revised Code. "Employee" includes any elected or appointed 22
official of a political subdivision. "Employee" also includes a 23
person who has been convicted of or pleaded guilty to a criminal 24
offense and who has been sentenced to perform community service 25
work in a political subdivision whether pursuant to section 26
2951.02 of the Revised Code or otherwise, and a child who is 27
found to be a delinquent child and who is ordered by a juvenile 28
court pursuant to section 2152.19 or 2152.20 of the Revised Code 29
to perform community service or community work in a political 30
subdivision. 31

(C) (1) "Governmental function" means a function of a 32
political subdivision that is specified in division (C) (2) of 33
this section or that satisfies any of the following: 34

(a) A function that is imposed upon the state as an 35
obligation of sovereignty and that is performed by a political 36
subdivision voluntarily or pursuant to legislative requirement; 37

(b) A function that is for the common good of all citizens 38
of the state; 39

(c) A function that promotes or preserves the public 40
peace, health, safety, or welfare; that involves activities that 41
are not engaged in or not customarily engaged in by 42
nongovernmental persons; and that is not specified in division 43
(G) (2) of this section as a proprietary function. 44

(2) A "governmental function" includes, but is not limited 45
to, the following: 46

(a) The provision or nonprovision of police, fire, 47

emergency medical, ambulance, and rescue services or protection;	48
(b) The power to preserve the peace; to prevent and	49
suppress riots, disturbances, and disorderly assemblages; to	50
prevent, mitigate, and clean up releases of oil and hazardous	51
and extremely hazardous substances as defined in section 3750.01	52
of the Revised Code; and to protect persons and property;	53
(c) The provision of a system of public education;	54
(d) The provision of a free public library system;	55
(e) The regulation of the use of, and the maintenance and	56
repair of, roads, highways, streets, avenues, alleys, sidewalks,	57
bridges, aqueducts, viaducts, and public grounds;	58
(f) Judicial, quasi-judicial, prosecutorial, legislative,	59
and quasi-legislative functions;	60
(g) The construction, reconstruction, repair, renovation,	61
maintenance, and operation of buildings that are used in	62
connection with the performance of a governmental function,	63
including, but not limited to, office buildings and courthouses;	64
(h) The design, construction, reconstruction, renovation,	65
repair, maintenance, and operation of jails, places of juvenile	66
detention, workhouses, or any other detention facility, as	67
defined in section 2921.01 of the Revised Code;	68
(i) The enforcement or nonperformance of any law;	69
(j) The regulation of traffic, and the erection or	70
nonerection of traffic signs, signals, or control devices;	71
(k) The collection and disposal of solid wastes, as	72
defined in section 3734.01 of the Revised Code, including, but	73
not limited to, the operation of solid waste disposal	74

facilities, as "facilities" is defined in that section, and the 75
collection and management of hazardous waste generated by 76
households. As used in division (C) (2) (k) of this section, 77
"hazardous waste generated by households" means solid waste 78
originally generated by individual households that is listed 79
specifically as hazardous waste in or exhibits one or more 80
characteristics of hazardous waste as defined by rules adopted 81
under section 3734.12 of the Revised Code, but that is excluded 82
from regulation as a hazardous waste by those rules. 83

(l) The provision or nonprovision, planning or design, 84
construction, or reconstruction of a public improvement, 85
including, but not limited to, a sewer system; 86

(m) The operation of a job and family services department 87
or agency, including, but not limited to, the provision of 88
assistance to aged and infirm persons and to persons who are 89
indigent; 90

(n) The operation of a health board, department, or 91
agency, including, but not limited to, any statutorily required 92
or permissive program for the provision of immunizations or 93
other inoculations to all or some members of the public, 94
provided that a "governmental function" does not include the 95
supply, manufacture, distribution, or development of any drug or 96
vaccine employed in any such immunization or inoculation program 97
by any supplier, manufacturer, distributor, or developer of the 98
drug or vaccine; 99

(o) The operation of mental health facilities, 100
developmental disabilities facilities, alcohol treatment and 101
control centers, and children's homes or agencies; 102

(p) The provision or nonprovision of inspection services 103

of all types, including, but not limited to, inspections in	104
connection with building, zoning, sanitation, fire, plumbing,	105
and electrical codes, and the taking of actions in connection	106
with those types of codes, including, but not limited to, the	107
approval of plans for the construction of buildings or	108
structures and the issuance or revocation of building permits or	109
stop work orders in connection with buildings or structures;	110
(q) Urban renewal projects and the elimination of slum	111
conditions, including the performance of any activity that a	112
county land reutilization corporation is authorized to perform	113
under Chapter 1724. or 5722. of the Revised Code;	114
(r) Flood control measures;	115
(s) The design, construction, reconstruction, renovation,	116
operation, care, repair, and maintenance of a township cemetery;	117
(t) The issuance of revenue obligations under section	118
140.06 of the Revised Code;	119
(u) The design, construction, reconstruction, renovation,	120
repair, maintenance, and operation of any school athletic	121
facility, school auditorium, or gymnasium or any recreational	122
area or facility, including, but not limited to, any of the	123
following:	124
(i) A park, playground, or playfield;	125
(ii) An indoor recreational facility;	126
(iii) A zoo or zoological park;	127
(iv) A bath, swimming pool, pond, water park, wading pool,	128
wave pool, water slide, or other type of aquatic facility;	129
(v) A golf course;	130

(vi) A bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding, or scooter riding is engaged;	131 132 133
(vii) A rope course or climbing walls;	134
(viii) An all-purpose vehicle facility in which all-purpose vehicles, as defined in section 4519.01 of the Revised Code, are contained, maintained, or operated for recreational activities.	135 136 137 138
(v) The provision of public defender services by a county or joint county public defender's office pursuant to Chapter 120. of the Revised Code;	139 140 141
(w) (i) At any time before regulations prescribed pursuant to 49 U.S.C.A 20153 become effective, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in a zone within a municipal corporation in which, by ordinance, the legislative authority of the municipal corporation regulates the sounding of locomotive horns, whistles, or bells;	142 143 144 145 146 147 148
(ii) On and after the effective date of regulations prescribed pursuant to 49 U.S.C.A. 20153, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in such a zone or of a supplementary safety measure, as defined in 49 U.S.C.A 20153, at or for a public road rail crossing, if and to the extent that the public road rail crossing is excepted, pursuant to subsection (c) of that section, from the requirement of the regulations prescribed under subsection (b) of that section.	149 150 151 152 153 154 155 156 157 158
(x) A function that the general assembly mandates a	159

political subdivision to perform. 160

(D) "Law" means any provision of the constitution, 161
statutes, or rules of the United States or of this state; 162
provisions of charters, ordinances, resolutions, and rules of 163
political subdivisions; and written policies adopted by boards 164
of education. When used in connection with the "common law," 165
this definition does not apply. 166

(E) "Motor vehicle" has the same meaning as in section 167
4511.01 of the Revised Code. 168

(F) "Political subdivision" or "subdivision" means a 169
municipal corporation, township, county, school district, or 170
other body corporate and politic responsible for governmental 171
activities in a geographic area smaller than that of the state. 172
"Political subdivision" includes, but is not limited to, a 173
county hospital commission appointed under section 339.14 of the 174
Revised Code, board of hospital commissioners appointed for a 175
municipal hospital under section 749.04 of the Revised Code, 176
board of hospital trustees appointed for a municipal hospital 177
under section 749.22 of the Revised Code, regional planning 178
commission created pursuant to section 713.21 of the Revised 179
Code, county planning commission created pursuant to section 180
713.22 of the Revised Code, joint planning council created 181
pursuant to section 713.231 of the Revised Code, interstate 182
regional planning commission created pursuant to section 713.30 183
of the Revised Code, port authority created pursuant to section 184
4582.02 or 4582.26 of the Revised Code or in existence on 185
December 16, 1964, regional council established by political 186
subdivisions pursuant to Chapter 167. of the Revised Code, 187
emergency planning district and joint emergency planning 188
district designated under section 3750.03 of the Revised Code, 189

joint emergency medical services district created pursuant to	190
section 307.052 of the Revised Code, fire and ambulance district	191
created pursuant to section 505.375 of the Revised Code, joint	192
interstate emergency planning district established by an	193
agreement entered into under that section, county solid waste	194
management district and joint solid waste management district	195
established under section 343.01 or 343.012 of the Revised Code,	196
community school established under Chapter 3314. of the Revised	197
Code, county land reutilization corporation organized under	198
Chapter 1724. of the Revised Code, the county or counties served	199
by a community-based correctional facility and program or	200
district community-based correctional facility and program	201
established and operated under sections 2301.51 to 2301.58 of	202
the Revised Code, a community-based correctional facility and	203
program or district community-based correctional facility and	204
program that is so established and operated, and the facility	205
governing board of a community-based correctional facility and	206
program or district community-based correctional facility and	207
program that is so established and operated.	208
(G) (1) "Proprietary function" means a function of a	209
political subdivision that is specified in division (G) (2) of	210
this section or that satisfies both of the following:	211
(a) The function is not one described in division (C) (1)	212
(a) or (b) of this section and is not one specified in division	213
(C) (2) of this section;	214
(b) The function is one that promotes or preserves the	215
public peace, health, safety, or welfare and that involves	216
activities that are customarily engaged in by nongovernmental	217
persons.	218
(2) A "proprietary function" includes, but is not limited	219

to, the following:	220
(a) The operation of a hospital by one or more political subdivisions;	221 222
(b) The design, construction, reconstruction, renovation, repair, maintenance, and operation of a public cemetery other than a township cemetery;	223 224 225
(c) The establishment, maintenance, and operation of a utility, including, but not limited to, a light, gas, power, or heat plant, a railroad, a busline or other transit company, an airport, and a municipal corporation water supply system;	226 227 228 229
(d) The maintenance, destruction, operation, and upkeep of a sewer system;	230 231
(e) The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band or orchestra, or off-street parking facility.	232 233 234 235
(H) "Public roads" means public roads, highways, streets, avenues, alleys, and bridges within a political subdivision. "Public roads" does not include berms, shoulders, rights-of-way, or traffic control devices unless the traffic control devices are mandated by the Ohio manual of uniform traffic control devices.	236 237 238 239 240 241
(I) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.	242 243 244 245 246 247

Section 2. That existing section 2744.01 of the Revised Code is hereby repealed. 248
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