

SENATE BILL No. 381

By Committee on Federal and State Affairs

2-11

1 AN ACT concerning emergencies and disasters; relating to the response to
2 hazardous materials and search and rescue incidents; regional
3 emergency response teams; duties of the state fire marshal; recovery of
4 costs; amending K.S.A. 2013 Supp. 75-6102 and repealing the existing
5 section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) The state fire marshal may enter into contracts to
9 establish regional emergency response teams to provide a response to
10 hazardous materials or search and rescue incidents.

11 (b) When a regional emergency response team contracting with the
12 state fire marshal pursuant to subsection (a) is activated to respond to a
13 hazardous materials incident, the party responsible for the hazardous
14 materials shall be strictly liable to the state fire marshal for the costs of the
15 response.

16 (c) When a regional emergency response team contracting with the
17 state fire marshal pursuant to subsection (a) is activated to respond to a
18 technical search or rescue incident caused by the negligent or willful act or
19 omission of another party, the responsible party shall be liable to the state
20 fire marshal for the costs of the response.

21 (d) The state fire marshal may recover the costs specified in
22 subsections (b) and (c) pursuant to the provisions of the Kansas
23 administrative procedure act.

24 (1) If payment is not made in full within 60 days after a final agency
25 order is issued, the state fire marshal shall contact the responsible party in
26 an effort to obtain payment.

27 (2) If the matter remains unresolved, the state fire marshal may obtain
28 civil enforcement of the final agency order pursuant to the Kansas judicial
29 review act and may recover any cost of collection, including reasonable
30 attorney fees.

31 (e) The state fire marshal shall appoint a hazardous materials advisory
32 committee and a search and rescue advisory committee to provide input
33 and assistance to the emergency response program and act as advisors to
34 the state fire marshal and the director of the division. The committees shall
35 meet periodically as determined by the state fire marshal.

36 (f) The state fire marshal may adopt rules and regulations governing

1 the composition, training, response and operations of the regional
2 emergency response teams.

3 Sec. 2. K.S.A. 2013 Supp. 75-6102 is hereby amended to read as
4 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
5 amendments thereto, unless the context clearly requires otherwise:

6 (a) "State" means the state of Kansas and any department or branch of
7 state government, or any agency, authority, institution or other
8 instrumentality thereof.

9 (b) "Municipality" means any county, township, city, school district
10 or other political or taxing subdivision of the state, or any agency,
11 authority, institution or other instrumentality thereof.

12 (c) "Governmental entity" means state or municipality.

13 (d) (1) "Employee" means: (A) Any officer, employee, servant or
14 member of a board, commission, committee, division, department, branch
15 or council of a governmental entity, including elected or appointed
16 officials and persons acting on behalf or in service of a governmental
17 entity in any official capacity, whether with or without compensation and a
18 charitable health care provider;

19 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
20 8818, and amendments thereto, regardless of whether the services of such
21 steward or racing judge are rendered pursuant to contract as an
22 independent contractor;

23 (C) employees of the United States marshal's service engaged in the
24 transportation of inmates on behalf of the secretary of corrections;

25 (D) a person who is an employee of a nonprofit independent
26 contractor, other than a municipality, under contract to provide educational
27 or vocational training to inmates in the custody of the secretary of
28 corrections and who is engaged in providing such service in an institution
29 under the control of the secretary of corrections provided that such
30 employee does not otherwise have coverage for such acts and omissions
31 within the scope of their employment through a liability insurance contract
32 of such independent contractor;

33 (E) a person who is an employee or volunteer of a nonprofit program,
34 other than a municipality, who has contracted with the commissioner of
35 juvenile justice or with another nonprofit program that has contracted with
36 the commissioner of juvenile justice to provide a juvenile justice program
37 for juvenile offenders in a judicial district provided that such employee or
38 volunteer does not otherwise have coverage for such acts and omissions
39 within the scope of their employment or volunteer activities through a
40 liability insurance contract of such nonprofit program;

41 (F) a person who contracts with the Kansas guardianship program to
42 provide services as a court-appointed guardian or conservator;

43 (G) an employee of an indigent health care clinic;

1 (H) former employees for acts and omissions within the scope of their
2 employment during their former employment with the governmental
3 entity;

4 (I) any member of a regional medical emergency response team,
5 created under the provisions of K.S.A. 48-928, and amendments thereto, in
6 connection with authorized training or upon activation for an emergency
7 response; and

8 (J) *any member of a regional hazardous materials or search and*
9 *rescue emergency response team contracting with the state fire marshal*
10 *pursuant to section 1, and amendments thereto, in connection with*
11 *authorized training or upon activation for an emergency response; and*

12 ~~(J)~~(K) medical students enrolled at the university of Kansas medical
13 center who are in clinical training, on or after July 1, 2008, at the
14 university of Kansas medical center or at another health care institution.

15 (2) "Employee" does not include: (A) An individual or entity for
16 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

17 (B) any independent contractor under contract with a governmental
18 entity except those contractors specifically listed in paragraph (1) of this
19 subsection.

20 (e) "Charitable health care provider" means a person licensed by the
21 state board of healing arts as an exempt licensee or a federally active
22 licensee, a person issued a limited permit by the state board of healing arts,
23 a physician assistant licensed by the state board of healing arts, a mental
24 health practitioner licensed by the behavioral sciences regulatory board, an
25 ultrasound technologist currently registered in any area of sonography
26 credentialed through the American registry of radiology technologists, the
27 American registry for diagnostic medical sonography or cardiovascular
28 credentialing international and working under the supervision of a person
29 licensed to practice medicine and surgery, or a health care provider as the
30 term "health care provider" is defined under K.S.A. 65-4921, and
31 amendments thereto, who has entered into an agreement with:

32 (1) The secretary of health and environment under K.S.A. 75-6120,
33 and amendments thereto, who, pursuant to such agreement, gratuitously
34 renders professional services to a person who has provided information
35 which would reasonably lead the health care provider to make the good
36 faith assumption that such person meets the definition of medically
37 indigent person as defined by this section or to a person receiving medical
38 assistance from the programs operated by the department of health and
39 environment, and who is considered an employee of the state of Kansas
40 under K.S.A. 75-6120, and amendments thereto;

41 (2) the secretary of health and environment and who, pursuant to such
42 agreement, gratuitously renders professional services in conducting
43 children's immunization programs administered by the secretary;

1 (3) a local health department or indigent health care clinic, which
2 renders professional services to medically indigent persons or persons
3 receiving medical assistance from the programs operated by the
4 department of health and environment gratuitously or for a fee paid by the
5 local health department or indigent health care clinic to such provider and
6 who is considered an employee of the state of Kansas under K.S.A. 75-
7 6120, and amendments thereto. Professional services rendered by a
8 provider under this paragraph (3) shall be considered gratuitous
9 notwithstanding fees based on income eligibility guidelines charged by a
10 local health department or indigent health care clinic and notwithstanding
11 any fee paid by the local health department or indigent health care clinic to
12 a provider in accordance with this paragraph (3); or

13 (4) the secretary of health and environment to provide dentistry
14 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or
15 dental hygienist services defined by K.S.A. 65-1456, and amendments
16 thereto, that are targeted, but are not limited to, medically indigent
17 persons, and are provided on a gratuitous basis: (A) At a location
18 sponsored by a not-for-profit organization that is not the dentist or dental
19 hygienist office location; ~~or~~ (B) at the office location of a dentist or dental
20 hygienist provided the care be delivered as part of a program organized by
21 a not-for-profit organization and approved by the secretary of health and
22 environment; or (C) as part of a charitable program organized by the
23 dentist that has been approved by the secretary of health and environment
24 upon a showing that the dentist seeks to treat medically indigent patients
25 on a gratuitous basis, except that such dentistry services and dental
26 hygienist services shall not include "oral and maxillofacial surgery" as
27 defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result
28 in "deep sedation" or "general anesthesia" as defined by K.A.R. 71-5-7.

29 (f) "Medically indigent person" means a person who lacks resources
30 to pay for medically necessary health care services and who meets the
31 eligibility criteria for qualification as a medically indigent person
32 established by the secretary of health and environment under K.S.A. 75-
33 6120, and amendments thereto.

34 (g) "Indigent health care clinic" means an outpatient medical care
35 clinic operated on a not-for-profit basis which has a contractual agreement
36 in effect with the secretary of health and environment to provide health
37 care services to medically indigent persons.

38 (h) "Local health department" shall have the meaning ascribed to
39 such term under K.S.A. 65-241, and amendments thereto.

40 (i) "Fire control, fire rescue or emergency medical services
41 equipment" means any vehicle, firefighting tool, protective clothing,
42 breathing apparatus and any other supplies, tools or equipment used in
43 firefighting or fire rescue or in the provision of emergency medical

1 services.

2 Sec. 3. K.S.A. 2013 Supp. 75-6102 is hereby repealed.

3 Sec. 4. This act shall take effect and be in force from and after its

4 publication in the statute book.