

By: Senator(s) Hewes, Lee (47th), Kirby,
Jackson (15th), Clarke, Gollott, Michel,
Doxey

To: Judiciary, Division A

SENATE BILL NO. 2233

1 AN ACT TO AMEND SECTION 95-9-1, MISSISSIPPI CODE OF 1972, TO
2 SPECIFICALLY INCLUDE THE DONATION OF FOOD TO SERVICE ORGANIZATIONS
3 FOR THE NEEDY IN THE TORT LIABILITY EXEMPTION FOR VOLUNTEER
4 CHARITABLE ACTIVITY; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 95-9-1, Mississippi Code of 1972, is
7 amended as follows:

8 95-9-1. (1) For the purposes of this section, unless the
9 context otherwise requires:

10 (a) "Qualified volunteer" means any person who freely
11 provides services, food, goods or the use of real or personal
12 property or equipment, without any compensation or charge to any
13 volunteer agency in connection with a volunteer activity. For
14 purposes of this chapter, reimbursement of actual expenses,
15 including travel expenses, necessarily incurred in the discharge
16 of a member's duties, insurance coverage and workers' compensation
17 coverage of volunteers, shall not be considered monetary
18 compensation.

19 (b) "Volunteer agency" means any department,
20 institution, community volunteer organization, food service
21 organization for the needy or any nonprofit corporation designated
22 501(c)(3) by the United States Internal Revenue Service, except an
23 agency established primarily for the recreational benefit of its
24 stockholders or members. Volunteer agency shall also include any
25 volunteer fire fighter association which is eligible to be
26 designated as a nonprofit corporation under 501(c)(3) by the
27 United States Internal Revenue Service.

28 (c) "Volunteer activity" means any activity within the
29 scope of any project, program or other activity regularly
30 sponsored by a volunteer agency with the intent to effect a
31 charitable purpose, or other public benefit including, but not
32 limited to, fire protection, rescue services, the enhancement of
33 the cultural, civic, religious, educational, scientific or
34 economic resources of the community or equine activity as provided
35 in Sections 95-11-1 et seq.

36 (2) A qualified volunteer shall not be held vicariously
37 liable for the negligence of another in connection with or as a
38 consequence of his volunteer activities.

39 (3) A qualified volunteer who renders assistance to a
40 participant in, or a recipient, consumer or user of the services
41 or benefits of a volunteer activity shall not be liable for any
42 civil damages for any personal injury or property damage caused to
43 a person as a result of any acts or omissions committed in good
44 faith except:

45 (a) Where the qualified volunteer engages in acts or
46 omissions which are intentional, willful, wanton, reckless or
47 grossly negligent; or

48 (b) Where the qualified volunteer negligently operates
49 a motor vehicle, aircraft, boat or other powered mode of
50 conveyance.

51 **SECTION 2.** This act shall take effect and be in force from
52 and after July 1, 2004.