

HOUSE BILL No. 2580

By Committee on Veterans, Military and Homeland Security

2-7

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 may adopt rules and regulations governing
32 the composition, training, response and operations of the regional
33 emergency response teams.

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

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

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

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

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

14 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
15 8818, and amendments thereto, regardless of whether the services of such
16 steward or racing judge are rendered pursuant to contract as an
17 independent contractor;

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

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

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

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

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

39 (H) former employees for acts and omissions within the scope of their
40 employment during their former employment with the governmental
41 entity;

42 (I) any member of a regional medical emergency response team,
43 created under the provisions of K.S.A. 48-928, and amendments thereto, in

1 connection with authorized training or upon activation for an emergency
2 response; ~~and~~

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

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

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

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

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

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

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

39 (3) a local health department or indigent health care clinic, which
40 renders professional services to medically indigent persons or persons
41 receiving medical assistance from the programs operated by the
42 department of health and environment gratuitously or for a fee paid by the
43 local health department or indigent health care clinic to such provider and

1 who is considered an employee of the state of Kansas under K.S.A. 75-
2 6120, and amendments thereto. Professional services rendered by a
3 provider under this paragraph (3) shall be considered gratuitous
4 notwithstanding fees based on income eligibility guidelines charged by a
5 local health department or indigent health care clinic and notwithstanding
6 any fee paid by the local health department or indigent health care clinic to
7 a provider in accordance with this paragraph (3); or

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

24 (f) "Medically indigent person" means a person who lacks resources
25 to pay for medically necessary health care services and who meets the
26 eligibility criteria for qualification as a medically indigent person
27 established by the secretary of health and environment under K.S.A. 75-
28 6120, and amendments thereto.

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

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

35 (i) "Fire control, fire rescue or emergency medical services
36 equipment" means any vehicle, firefighting tool, protective clothing,
37 breathing apparatus and any other supplies, tools or equipment used in
38 firefighting or fire rescue or in the provision of emergency medical
39 services.

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

41 Sec. 4. This act shall take effect and be in force from and after its
42 publication in the statute book.