

109TH CONGRESS  
2D SESSION

# H. R. 4698

To provide liability protection for individuals who volunteer to assist victims of national disasters.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2006

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide liability protection for individuals who volunteer to assist victims of national disasters.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Disaster Relief Volun-  
5 teer Protection Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) It is in the national interest to encourage  
9 individuals to volunteer to assist victims of national  
10 disasters.

1           (2) The exposure of potential volunteers, their  
2           employers, and those who would use volunteers' serv-  
3           ices under existing law to compensatory and punitive  
4           damages for negligent acts discourages the provision  
5           of these services.

6           (3) The availability of damages in these cir-  
7           cumstances for actions that constitute gross neg-  
8           ligence creates uncertainty concerning the actual  
9           conduct that might cause liability to be imposed on  
10          volunteers.

11          (4) Potential liability for acts of volunteers dis-  
12          courages the employers or business partners of po-  
13          tential volunteers from permitting those potential  
14          volunteers to provide disaster relief services.

15          (5) Potential liability for acts of volunteers dis-  
16          courages entities that might use the services pro-  
17          vided by volunteers in national disasters from doing  
18          so.

19          (6) Well-founded fear of liability under existing  
20          law for providing goods discourages governmental  
21          and intergovernmental entities from providing need-  
22          ed disaster relief goods.

23          (7) Well-founded fear of liability for punitive  
24          damages under existing law discourages govern-  
25          mental and intergovernmental entities from pro-

1       viding needed disaster relief goods and discourages  
2       potential volunteers from providing volunteer serv-  
3       ices to disaster victims.

4               (8) Fear of compensatory and punitive damages  
5       for providing volunteer services deters potential vol-  
6       unteers from states located outside the national dis-  
7       aster area from providing volunteer services.

8               (9) Fear of compensatory and punitive damages  
9       for providing volunteer services deters potential for-  
10      eign volunteers from providing disaster relief serv-  
11      ices.

12              (10) Any lessening of liability for volunteers  
13      providing disaster relief services, their employers and  
14      business partners, and entities utilizing their serv-  
15      ices should maintain adequate incentives for each of  
16      these classes of persons or entities to avoid causing  
17      harm.

18              (11) Unwillingness to provide volunteer services  
19      to disaster victims in the face of uncertain liability  
20      substantially affects, burdens, and deters interstate  
21      commerce and travel.

22              (12) Unwillingness of employers and business  
23      partners to allow their employees and business part-  
24      ners to provide disaster relief services in the face of

1 uncertain liability substantially affects, burdens, and  
2 deters interstate commerce and travel.

3 (13) Unwillingness of persons, entities, or orga-  
4 nizations to accept disaster relief services from vol-  
5 unteers in the face of uncertain liability substantially  
6 affects, burdens, and deters interstate commerce and  
7 travel.

8 (14) Unwillingness by foreigners to provide vol-  
9 untary disaster relief services in the face of uncer-  
10 tain liability substantially affects, burdens, and de-  
11 teters foreign commerce and travel.

12 (15) Unless Congress provides uniform stand-  
13 ards to address disasters that could occur in any  
14 State or combination of states, potential volunteers  
15 and others will not be certain which laws would gov-  
16 ern their providing disaster relief services, which  
17 would substantially affect, burden, and deter inter-  
18 state and foreign commerce and travel in the event  
19 of a national disaster.

20 **SEC. 3. DISASTER RELIEF VOLUNTEERS.**

21 (a) **LIABILITY OF DISASTER RELIEF VOLUN-**  
22 **TEERS.**—A disaster relief volunteer shall not be liable for  
23 any injury (including personal injury, property damage or  
24 loss, and death) caused by an act or omission of such vol-

1 unteer in connection with such volunteer's providing or fa-  
2 cilitating the provision of disaster relief services if—

3 (1) the injury was not caused by willful, wan-  
4 ton, or reckless misconduct by the volunteer; and

5 (2) the injury was not caused by the volunteer's  
6 operating a motor vehicle, vessel, aircraft, or other  
7 vehicle for which the state requires the operator or  
8 the owner of the vehicle, craft, or vessel to—

9 (A) possess an operator's license; or

10 (B) maintain insurance.

11 (b) LIABILITY OF EMPLOYER OR PARTNER OF DIS-  
12 ASTER RELIEF VOLUNTEER.—An employer or business  
13 partner of a disaster relief volunteer shall not be liable  
14 for any act or omission of such volunteer in connection  
15 with such volunteer's providing or facilitating the provi-  
16 sion of disaster relief services.

17 (c) LIABILITY OF HOST OR ENABLING PERSON, EN-  
18 TITY, OR ORGANIZATION.—A person or entity, including  
19 a governmental entity, that works with, accepts services  
20 from, or makes its facilities available to a disaster relief  
21 volunteer to enable such volunteer to provide disaster re-  
22 lief services shall not be liable for any act or omission of  
23 such volunteer in connection with such volunteer's pro-  
24 viding such services.

1 (d) LIABILITY OF NONPROFIT ORGANIZATIONS.—A  
2 nonprofit organization shall not be liable for any injury  
3 (including personal injury, property damage or loss, and  
4 death) caused by an act or omission in connection with  
5 such nonprofit organization's providing or facilitating the  
6 provision of disaster relief services if the injury was not  
7 caused by willful, wanton, or reckless misconduct by the  
8 nonprofit organization.

9 (e) LIABILITY OF GOVERNMENTAL AND INTERGOV-  
10 ERNMENTAL ENTITIES FOR DONATIONS OF DISASTER  
11 RELIEF GOODS.—A governmental or intergovernmental  
12 entity that donates to an agency or instrumentality of the  
13 United States disaster relief goods shall not be liable for  
14 any injury (including personal injury, property damage or  
15 loss, and death) caused by such donated goods if the in-  
16 jury was not caused by willful, wanton, or reckless mis-  
17 conduct by such governmental or intergovernmental enti-  
18 ty.

19 (f) LIMITATION ON PUNITIVE AND NONECONOMIC  
20 DAMAGES BASED ON ACTIONS OF DISASTER RELIEF  
21 VOLUNTEERS AND GOVERNMENTAL DONORS.—

22 (1) PUNITIVE DAMAGES.—Unless the claimant  
23 establishes by clear and convincing evidence that its  
24 damages were proximately caused by willful, wanton,  
25 or reckless misconduct by either—

1 (A) a disaster relief volunteer in any civil  
2 action brought for injury caused by the volun-  
3 teer's providing or facilitating the provision of  
4 disaster relief services; or

5 (B) a governmental or intergovernmental  
6 entity in any civil action brought for injury  
7 caused by disaster relief goods donated by such  
8 governmental or intergovernmental entity;

9 punitive damages may not be awarded in any civil  
10 action against such a volunteer or governmental en-  
11 tity.

12 (2) NONECONOMIC DAMAGES.—

13 (A) GENERAL RULE.—In any civil action  
14 brought against—

15 (i) a disaster relief volunteer for in-  
16 jury caused by such volunteer's providing  
17 or facilitating the provision of disaster re-  
18 lief services; or

19 (ii) a governmental or intergovern-  
20 mental entity for injury caused by disaster  
21 relief goods donated by such governmental  
22 entity;

23 liability for noneconomic loss, if permitted  
24 under subsection (a) or (e) of this section, shall

1 be determined in accordance with this subpara-  
2 graph.

3 (B) AMOUNT OF LIABILITY.—(i) The  
4 amount of noneconomic loss allocated to the  
5 disaster relief volunteer or governmental or  
6 intergovernmental entity defendant shall be in  
7 direct proportion to the percentage of responsi-  
8 bility of that defendant (determined in accord-  
9 ance with clause (ii)) for the harm to the claim-  
10 ant with respect to which that defendant is lia-  
11 ble. The court shall render a separate judgment  
12 against each defendant in an amount deter-  
13 mined pursuant to this section.

14 (ii) For purposes of determining the  
15 amount of noneconomic loss allocated to a de-  
16 fendant, the trier of fact shall determine the  
17 percentage of responsibility of each person or  
18 entity responsible for the claimant's harm,  
19 whether or not such person or entity is a party  
20 to the action.

21 (g) CONSTRUCTION.—Nothing in this section shall be  
22 construed to abrogate or limit any protection that a volun-  
23 teer, as defined in the Volunteer Protection Act of 1997  
24 (42 U.S.C. 14501 et seq.), may be entitled to under that  
25 Act. Neither shall anything in this section be construed

1 to confer any private right of action or to abrogate or limit  
2 any protection with respect to either liability or damages  
3 that any disaster relief volunteer or governmental or inter-  
4 governmental entity may be entitled to under any other  
5 provision of law.

6 (h) SUPPLEMENTAL DECLARATION.—If a Disaster  
7 Declaration is issued, the President, the Secretary of  
8 Health and Human Services, or the Secretary of Home-  
9 land Security may issue a Supplemental Declaration under  
10 this section.

11 (1) TEMPORAL EFFECT.—Such Supplemental  
12 Declaration may provide that, for purposes of this  
13 section, such Disaster Declaration shall have such  
14 temporal effect as the President or the Secretary  
15 may deem necessary or appropriate to further the  
16 public interest, including providing that such Dis-  
17 aster Declaration shall have an effective date earlier  
18 than the date of the declaration or determination of  
19 such Disaster Declaration.

20 (2) GEOGRAPHIC AND OTHER CONDITIONS.—  
21 Such Supplemental Declaration may provide that,  
22 for purposes of this section, such Disaster Declara-  
23 tion shall have such geographic or other conditions  
24 as the President or the Secretary may deem nec-  
25 essary or appropriate to further the public interest.

1 (i) LICENSING, CERTIFICATION, AND AUTHORIZA-  
2 TION.—This section shall not apply to a disaster relief vol-  
3 unteer where the disaster relief service such volunteer pro-  
4 vides is of a type that generally requires a license, certifi-  
5 cate, or authorization, and the disaster relief volunteer  
6 lacks such license, certificate, or authorization, unless—

7 (1) such volunteer is licensed, certified, or au-  
8 thORIZED to provide such services in any State to the  
9 extent required, if any, by the appropriate authori-  
10 ties of that State, even if such State is not the State  
11 in which the disaster relief volunteer provides dis-  
12 aster relief services; or

13 (2) otherwise specified in a Disaster Declara-  
14 tion or Supplemental Declaration under this section.

15 (j) DEFINITIONS.—For purposes of this section:

16 (1) The term “Disaster Declaration” means—

17 (A) a public health emergency declaration  
18 by the Secretary of Health and Human Services  
19 under section 319 of the Public Health Service  
20 Act (42 U.S.C. 247d);

21 (B) a declaration of a public health emer-  
22 gency or a risk of such emergency as deter-  
23 mined by the Secretary of Homeland Security  
24 in accordance with clause (i) or clause (ii) of  
25 section 2811(b)(3)(A) of such Act (42 U.S.C.

1           300hh–11(b)(3)(A)) and section 503(5) of the  
2           Homeland Security Act of 2002 (6 U.S.C.  
3           313(5)); or

4           (C) an emergency or major disaster dec-  
5           laration by the President under section 401 or  
6           501 of the Robert T. Stafford Disaster Relief  
7           and Emergency Assistance Act (42 U.S.C. 5170  
8           or 5191).

9           (2) The term “disaster relief volunteer” means  
10          an individual who provides disaster relief services in  
11          connection with a Disaster Declaration without ex-  
12          pectation or receipt of compensation in exchange for  
13          providing such services.

14          (3) The term “disaster relief services” means  
15          services or assistance provided in preparation for, re-  
16          sponse to, or recovery from any event that is the  
17          subject of a Disaster Declaration, including but not  
18          limited to health, medical, fire fighting, rescue, re-  
19          construction, and any other services or assistance  
20          specified by a Supplemental Declaration under this  
21          section as necessary or desirable to prepare for, re-  
22          spond to, or recover from an event that is the sub-  
23          ject of a Disaster Declaration.

24          (4) The term “disaster relief good” means ei-  
25          ther—

1 (A) those goods provided in preparation  
2 for, response to, or recovery from any event  
3 that is the subject of a Disaster Declaration  
4 and reasonably necessary to such preparation,  
5 response, or recovery; or

6 (B) those goods defined by a Disaster Dec-  
7 laration or Supplemental Declaration under this  
8 section.

9 (5) The term “noneconomic loss” means losses  
10 for physical and emotional pain, suffering, inconven-  
11 ience, physical impairment, mental anguish, dis-  
12 figurement, loss of enjoyment of life, loss of society  
13 and companionship, loss of consortium (other than  
14 loss of domestic service), hedonic damages, injury to  
15 reputation, and all other nonpecuniary losses of any  
16 kind or nature.

17 (6) The term “State” means each of the several  
18 States, the District of Columbia, the Commonwealth  
19 of Puerto Rico, the Virgin Islands, Guam, American  
20 Samoa, the Northern Mariana Islands, any other  
21 territory or possession of the United States, or any  
22 political subdivision of any such State, territory, or  
23 possession, and (for purposes of subsection (h)) any  
24 foreign country.

1           (7) The term “compensation” means monetary  
2 or other compensation of any kind provided in ex-  
3 change for an individual’s services, but does not in-  
4 clude—

5                   (A) reasonable reimbursement or allowance  
6 for expenses actually incurred by such an indi-  
7 vidual;

8                   (B) provision of reasonable supplies, lodg-  
9 ing, or transportation to such an individual; or

10                   (C) such an individual’s ordinary salary or  
11 compensation paid by his or her employer while  
12 such individual is on leave from his or her ordi-  
13 nary duties with such employer in order to pro-  
14 vide disaster relief services.

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