**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 76 TO TITLE 15 SO AS TO LIMIT LIABILITY OF CERTAIN INDIVIDUALS WHO PROVIDE VOLUNTEER TRANSPORTATION TO A SENIOR CITIZEN FOR INJURIES AND LOSSES TO THE SENIOR CITIZEN AND TO THE SENIOR CITIZEN’S SPOUSE, FAMILY MEMBERS, OR HEIRS AND ASSIGNS, TO PROVIDE EXCEPTIONS TO LIABILITY LIMITS IF THE INJURIES OR LOSSES ARE THE RESULT OF GROSS NEGLIGENCE OR OTHER MISCONDUCT OF THE VOLUNTEER, AND FOR OTHER PURPOSES.

Whereas, no law addresses the problem of unlimited liability for volunteers who wish to transport senior citizens in their automobiles, and people who otherwise may volunteer to transport senior citizens refuse because of the potential for unlimited liability; and

Whereas, the public policy of this State is to encourage volunteerism and community; and

Whereas, this bill achieves a balance of accountability and placing responsibility upon volunteers, while at the same time encouraging volunteerism by reasonably limiting a volunteer’s liability. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 15 of the 1976 Code is amended by adding:

“CHAPTER 76

Liability Exemption for Volunteer Drivers

Section 15‑76‑10. For purposes of this chapter:

(1) ‘Automobile insurance coverage’ means automobile insurance as defined by Section 38‑77‑30(1), additional uninsured motorist coverage as provided by Section 38‑77‑160, underinsured motorist coverage as provided by Section 38‑77‑160, or any other insurance under a policy that provides excess coverage for liability arising out of the operation of a motor vehicle for volunteer transportation.

(2) ‘Charitable organization’ means a charitable entity that is eligible to receive tax deductible contributions pursuant to the IRS Code Section 501(c)(2), (c)(3), or (c)(4).

(3) ‘Human service agency’ means a nonprofit human service unit, clinic, senior citizens program, congregate meal center, daycare center for the elderly, or a similar entity that is supported in whole, or in part, from public funds.

(4) ‘Personally owned motor vehicle’ means:

(a) a motor vehicle owned by the volunteer or an individual who resides permanently with the volunteer;

(b) a nonowned motor vehicle the volunteer operates as a temporary substitute vehicle, regardless of whether an owned vehicle is operable;

(c) a motor vehicle under a lease agreement between an automobile dealer and either:

(i) the volunteer; or

(ii) an individual who resides permanently with the volunteer.

(5) ‘Senior citizen’ means an individual who is sixty years of age or older.

(6) ‘Volunteer’ means an individual who is sixty years of age or older and who provides volunteer transportation under this section.

(7) ‘Volunteer transportation’ means motor vehicle transportation provided by a volunteer to a senior citizen under the direction, sponsorship, or supervision of a human service agency or a charitable organization without compensation in any form.

Section 15‑76‑20. (A) A volunteer who provides volunteer transportation in his personally owned motor vehicle for a senior citizen is liable only for damages for injury or loss to the senior citizen, the spouse, family member, or heirs and assigns, arising out of or resulting from the volunteer transportation only to the extent of automobile insurance applicable to the vehicle involved in the collision. This limitation applies only if the:

(1) volunteer was acting in good faith within the scope of his official actions and duties of providing volunteer transportation;

(2) injury was not caused by gross negligence, wilful or wanton misconduct, or a reckless disregard to the rights or safety of the senior citizen; and

(3) motor vehicle being driven by the volunteer is covered by the owner’s automobile insurance policy as defined by and in compliance with Section 38‑77‑30(1).

(B) The limitation under this chapter does not apply to any matter in which a party establishes bad faith on the part of an insurance carrier who provides automobile insurance coverage as defined by Section 15‑76‑10.

Section 15‑76‑30. This chapter applies only to claims for damages brought by or on behalf of the senior citizens, or their heirs and assigns, for claims pursuant to Section 15‑76‑20(A). Nothing in this chapter affects a volunteer’s liability for injury or loss to any other party.

Section 15‑76‑40. A volunteer who provides volunteer transportation to a senior citizen as provided by this chapter may be reimbursed for the actual expenses of operating the volunteer’s personal motor vehicle to provide volunteer transportation, but the volunteer must not receive any form of compensation for providing volunteer transportation. For purposes of this section, reimbursement of operating expenses may be based on the applicable federal mileage rate.”

SECTION 2. This act takes effect upon approval by the Governor.

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