

**Senate Bill No. 383**

(By Senators Wells, Unger, Snyder, Jenkins, McCabe, Stollings,  
Plymale, Klempa, D. Facemire, Nohe, Yost and Sypolt)

\_\_\_\_\_  
[Introduced February 2, 2011; referred to the Committee on  
Military; and then to the Committee on the Judiciary.]  
\_\_\_\_\_

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §15-1F-12, relating  
to limiting the liability of military personnel who respond to  
local emergencies and calls for assistance.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new section, designated §15-1F-12, to read as  
follows:

**ARTICLE 1F. PRIVILEGES AND PROHIBITIONS.**

**§15-1F-12. Limiting liability of military personnel.**

(a) A member of the West Virginia National Guard called to  
state active duty or active duty under Title 32 of the United  
States Code in the event of a disaster, emergency or other official  
duty has the privileges and immunities afforded to state officers

1 and employees as provided in this code, and is not liable for civil  
2 damages for any alleged act, to include negligence or omission  
3 which is claimed to have occurred during the rendering of that  
4 assistance, unless the act is determined to be willful and wanton  
5 or constitutes gross negligence.

6 (b) A member of the West Virginia National Guard called to  
7 state active duty to aid the civil authorities in executing the  
8 laws of the state, suppressing insurrection, repelling invasion or  
9 promoting the health, safety and welfare of the citizens of this  
10 state is considered a law-enforcement officer and shall be afforded  
11 the privileges and immunities afforded law-enforcement officers  
12 under this code, and is not liable for civil damages for any  
13 alleged act, to include negligence or omission which is claimed to  
14 have occurred during the rendering of that assistance, unless that  
15 act is determined to be willful and wanton or constitutes gross  
16 negligence.

17 (c) A member of a military police organization, military fire  
18 department or unit detailed with a similar task, while in a  
19 military duty status, who, at the request of a local official,  
20 authority or a law-enforcement personnel, responds to a call for  
21 assistance, is not liable for civil damages for any alleged act, to  
22 include negligence or omission which is claimed to have occurred  
23 during the rendering of that assistance, unless that act is  
24 determined to be willful and wanton or constitutes gross

1 negligence.

NOTE: The purpose of this bill is to limit the liability of military personnel who respond to local emergencies and calls for assistance.

This section is new; therefore, strike-throughs and underscoring have been omitted.