CHAPTER 32-03.1
GOOD SAMARITAN ACT

32-03.1-01. Definitions.

For the purposes of this chapter, the following terms shall have the designated meanings:

1. "Aid or assistance necessary or helpful in the circumstances" means any actions which the aider reasonably believed were required to prevent death or serious permanent injury, disability or handicap, or reasonably believed would benefit the injured or ill person, depending upon the aider's perception of the nature and severity of the injury or illness and the total emergency situation, and that the aider reasonably believed the aider could successfully undertake.
2. "Apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by federal, state, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.
3. "Apparently wholesome food" means food that meets all quality and labeling standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.
4. "Appropriate person licensed or certified by this state or by any state or province to provide medical care or assistance" means any physician, nurse, emergency medical technician, or other medical or paramedical personnel whom the aider reasonably believes is such, based upon the representations of the person or that person's actions in providing medical aid.
5. "Employed expressly or actually" means either that the person's formal duties include the provision of emergency medical aid, or that the person customarily provides such aid and is informally expected or relied upon to do so in the course of the person's employment.
6. "Gross negligence" means acts or omissions falling short of intentional misconduct which nevertheless show a failure to exercise even slight care or any conscious interest in the predictable consequences of the acts or omissions. For the purposes of this chapter, "gross negligence" includes the failure of an aider to relinquish direction of the care of an injured or ill person when an appropriate person licensed or certified by this state or by any state or province to provide medical care or assistance assumes or attempts to assume responsibility for the care of the injured or ill person.

32-03.1-02. Actions barred.

An individual, or the individual's employer, subject to the exceptions in sections 32-03.1-03, 32-03.1-04, and 32-03.1-08, who renders aid or assistance necessary or helpful in the circumstances to another individual who has been injured or is ill as the result of an accident or illness, or any mechanical, external or organic trauma, or in the offering of apparently wholesome food or an apparently fit grocery product may not be named as a defendant or held liable in any personal injury civil action by any party in this state for acts or omissions arising out of a situation in which emergency aid or assistance is rendered, unless it is plainly alleged in the complaint and later proven that the individual's acts or omissions constituted intentional misconduct or gross negligence.

32-03.1-02.1. Emergency obstetrical services.

A physician licensed under chapter 43-17 who renders emergency obstetrical care or assistance to a pregnant female in active labor who has not previously been cared for in connection with the pregnancy by the physician or by another person professionally associated with the physician and whose medical records are not reasonably available to the physician is not liable in any personal injury civil action for acts or omissions resulting from the rendering of that emergency care or assistance, unless it is plainly alleged in the complaint and later proven that the physician's acts or omissions constituted intentional misconduct or gross negligence.

The immunity from civil liability provided by this section does not extend to a physician who renders emergency obstetrical care or assistance with an expectation of remuneration or who collects a fee for rendering that care or assistance.

32-03.1-02.2. Immunity for a licensed health care provider who provides volunteer medical care at free clinics - Immunity for persons offering wholesome food or grocery product.

1. A health care provider licensed under title 43 who renders medical care on a voluntary basis at a free clinic is not liable in any personal injury civil action for acts or omissions resulting in the rendering of that care unless it is plainly alleged in the complaint and later proven that the health care provider's acts or omissions constituted intentional misconduct or gross negligence. For purposes of this section, "voluntary" is defined as without receiving remuneration of any sort. "Free clinic" is defined as a clinic that is established to provide primary health care to persons who are otherwise unable to obtain medical services due to their lack of access to health insurance or medical assistance.
2. A restaurant, grocery store, or an individual or entity offering apparently wholesome food and apparently fit grocery products, free of charge may not be held liable for any acts or omissions resulting in the offering of food care unless it is plainly alleged in the complaint and later proven the act of the individual or entity constituted intentional misconduct or gross negligence.

32-03.1-02.3. Automated external defibrillators - Liability limited.

An individual who in good faith and without compensation provides training to use an automated external defibrillator, emergency care by using an automated external defibrillator, or emergency treatment by using an automated external defibrillator is immune from civil liability for any personal injury resulting from the training, emergency care, or emergency treatment and for any act or failure to act in providing or arranging further medical treatment if the individual providing the training, emergency care, or emergency treatment acted as an ordinary, reasonable, prudent person would act under the same or similar circumstances. This section does not apply if a personal injury results from the gross negligence or from the willful or wanton misconduct of the individual providing the training, emergency care, or emergency treatment. This section provides immunity to the person responsible for the site on which the automated external defibrillator is located. This section does not limit civil liability protection provided by any other law.

32-03.1-03. Criminal immunity.

No person who renders aid or assistance necessary or helpful in the circumstances to other persons who have been injured or are ill as the result of an accident or sudden illness or any mechanical, external, or organic trauma may be criminally charged in this state for having practiced medicine or nursing without a license, provided that the aider shall relinquish direction of the care of the injured person when an appropriate person licensed or certified by this state or by any state or province to provide medical care or assistance assumes responsibility for the care of the injured person.

32-03.1-04. Fees or reimbursement for aid.

Nothing in this chapter may be construed to deprive any physician or surgeon licensed in this state of the right to collect reasonable fees for any acts of aid, assistance, or treatment or any other person rendering aid or assistance under this chapter, or those whose property is necessarily damaged in the course of such aid or assistance under this chapter, of the right to reimbursement, from the injured or ill person or that person's estate for any expenses or damages which appeared reasonable and necessary to incur under the circumstances. Any person rendering aid or assistance with an expectation of remuneration shall not be covered by the provisions of this chapter.

32-03.1-05. Exceptions.

This chapter does not encompass a person who, at the time of the emergency, was employed expressly or actually for the purpose of providing emergency medical aid to humans, either within or outside of a hospital or other place or vehicle with medical equipment, for emergency medical aid or other assistance rendered in the regular course of the person's employment. Such persons and their employers are liable for their acts and omissions in rendering emergency medical aid in the regular course of their employment, according to the prevailing law in this state.

32-03.1-06. Limited repealer.

This chapter supersedes any conflicting provision of law which is inconsistent with this chapter except sections 23-27-04.1, 32-03-40, 32-03-42, 39-08-04.1, 43-12.1-12, 43-17-37, and 43-17-38.

32-03.1-07. Costs and fees.

Notwithstanding any other provision in the laws of this state, or any court rules, if a party names a defendant in a suit alleging intentional misconduct or gross negligence, as described in section 32-03.1-01, and the trial judge dismisses the complaint or grants a defendant's motion for judgment on the pleadings, or directs a verdict for a defendant, or grants a defendant's motion for judgment notwithstanding the verdict, or at any point in the proceedings grants a plaintiff's motion to discontinue the action against the defendant, the defendant shall be entitled to full costs and reasonable attorney's fees expended in connection with the defendant's defense of the action. If good reason is shown, the trial judge may suspend the operation of this section.

32-03.1-08. Actions not barred.

Nothing in this chapter may be construed to bar a civil action by any injured or ill person or injured or ill person's survivors against any person for having tortiously caused an injury or emergency situation. Nothing in this chapter may be construed to relieve any person, tortiously causing an injury or emergency situation, from any affirmative duty to provide proper aid or assistance. If the defendant prevails in such an action, the defendant shall be entitled to costs and fees only as the other statutes and court rules of this state provide.