

1 **LIABILITY PROTECTION FOR SURPLUS**

2 **EMERGENCY EQUIPMENT**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: DeMar Bud Bowman**

6 **This act provides for liability protection for donors of surplus emergency equipment to fire**  
7 **and emergency services departments within the state.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 ENACTS:

10 **78-27-65**, Utah Code Annotated 1953

11 *Be it enacted by the Legislature of the state of Utah:*

12 Section 1. Section **78-27-65** is enacted to read:

13 **78-27-65. Limitations on liability of donors of surplus emergency equipment.**

14 (1) As used in this section, "fire or rescue equipment" includes vehicles, protective gear,  
15 breathing apparatus, firefighting tools, and any other supplies and tools used in firefighting or  
16 rescue operations.

17 (2) A person, private corporation, or government agency may donate used or obsolete fire  
18 or rescue equipment to fire and emergency services departments within the state as long as the  
19 equipment is operational and functional. Equipment that is not operational may be donated as long  
20 as the receiving department is made aware of the deficiency.

21 (3) A person, private corporation, or government agency is not liable for any injury to  
22 persons or property resulting from a defect in fire or rescue equipment donated to another fire or  
23 emergency services department within the state unless:

24 (a) the person, private corporation, or government agency knew of the defect and did not  
25 inform the receiving department of the defect; or

26 (b) the injury is caused by an act or omission of the donating person, private corporation,  
27 or government agency that constitutes malice, gross negligence, recklessness, or intentional

28 misconduct.

29 (4) The receiving department shall provide necessary training to those likely to use the  
30 equipment in the safe use, care, and maintenance of any equipment received.

31 (5) Once received, the person, private corporation, or government agency is relieved of all  
32 responsibility for, and the receiving department becomes responsible for, all care, upkeep, and  
33 maintenance of the equipment.

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**Legislative Review Note**  
**as of 1-23-01 3:47 PM**

This legislation raises the following constitutional or statutory concerns:

Article I, Section 11 of the Utah Constitution provides every person with open access to the courts for an injury done to his person, property, or reputation. This legislation may violate that provision by providing immunity to companies who pass on used equipment to local emergency services organizations. A person who is injured through the operation or inoperation of such equipment would have no recourse under certain circumstances.

**Office of Legislative Research and General Counsel**