

IC 36-8-12

Chapter 12. Volunteer Fire Departments

IC 36-8-12-0.1

Application of certain amendments to chapter

Sec. 0.1. The formula added to section 6 of this chapter by P.L.70-1995 applies to insurance policies that are entered into or renewed after December 31, 1995.

As added by P.L.220-2011, SEC.676.

IC 36-8-12-1

Application of chapter

Sec. 1. Except as provided in section 10 of this chapter, this chapter applies to all units except counties.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.72-1992, SEC.4.

IC 36-8-12-2

Definitions

Sec. 2. As used in this chapter:

"Emergency medical services personnel" means individuals certified by the emergency medical services commission established by IC 16-31-2-1 who:

- (1) as a result of a written application, have been elected or appointed to membership in a volunteer fire department; and
- (2) have executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the individuals by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training.

"Employee" means a person in the service of another person under a written or implied contract of hire or apprenticeship.

"Employer" means:

- (1) a political subdivision;
- (2) an individual or the legal representative of a deceased individual;
- (3) a firm;
- (4) an association;
- (5) a limited liability company;
- (6) an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5(a); or
- (7) a corporation or its receiver or trustee;

that uses the services of another person for pay.

"Essential employee" means an employee:

- (1) who the employer has determined to be essential to the operation of the employer's daily enterprise; and
- (2) without whom the employer is likely to suffer economic injury as a result of the absence of the essential employee.

"Nominal compensation" means annual compensation of not more

than twenty thousand dollars (\$20,000).

"Public servant" has the meaning set forth in IC 35-31.5-2-261.

"Responsible party" has the meaning set forth in IC 13-11-2-191(e).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

- (1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;
- (2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and
- (3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

"Volunteer member" means a member of a volunteer emergency medical services association connected with a unit as set forth in IC 16-31-5-1(6).

As added by Acts 1981, P.L.309, SEC.64. Amended by Acts 1981, P.L.181, SEC.3; P.L.217-1989, SEC.6; P.L.70-1995, SEC.6; P.L.1-1996, SEC.91; P.L.1-1999, SEC.88; P.L.192-1999, SEC.1; P.L.119-2003, SEC.1; P.L.43-2005, SEC.2; P.L.127-2009, SEC.11; P.L.174-2009, SEC.2; P.L.114-2012, SEC.150.

IC 36-8-12-3

Agreements with units; authorization

Sec. 3. A unit may enter into an agreement with one (1) or more volunteer fire departments that maintain adequate firefighting service for the use and operation of firefighting apparatus and equipment owned by the volunteer fire department, including the service of the operators of the apparatus and equipment, so that the private and public property of the unit is saved from destruction by fire.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.1-1999, SEC.89.

IC 36-8-12-4

Agreements with units; consideration

Sec. 4. The contract between a unit and a volunteer fire department must provide that the unit pay to the department, as consideration for the contract, an amount of money that is determined by negotiation between them. This consideration must include the amounts that the unit is required to pay under this chapter for insurance premiums and clothing, automobile, and other allowances.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.1-1999,

SEC.90.

IC 36-8-12-5

Clothing and automobile allowances; fees for membership in firefighters' association

Sec. 5. (a) Unless otherwise provided by contract, a unit served by a volunteer fire department shall pay to each active and participating member of the department:

(1) a clothing allowance of not less than one hundred dollars (\$100) per year; and

(2) an automobile allowance of not less than one hundred dollars (\$100) per year for the use of the member's automobile in the line of duty.

(b) A contract may also provide that fees for membership in a regularly organized volunteer firefighters' association be paid by the unit on behalf of the firefighters in the volunteer fire department.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.229-1996, SEC.2; P.L.1-1999, SEC.91.

IC 36-8-12-6

Units required to insure members of department; liability for failure to insure

Sec. 6. (a) Each unit that has a volunteer fire department shall procure insurance in the name of and for the benefit of each member of the department. However, if a contract or agreement exists between a unit and a volunteer fire department, the contract or agreement must provide for insurance of the volunteer firefighters and emergency medical services personnel in the department in the amounts and with the coverages required by this chapter. Unless the contract or agreement stipulates otherwise, all insurance coverage must be under a group plan, rather than in the name of each individual firefighter and member of the emergency medical services personnel. Either the unit or the volunteer fire department, according to the contractor agreement, may undertake procurement of required insurance, but in either case, the costs of coverage must be borne by the unit. If a volunteer fire department serves more than one (1) unit under a contract or agreement, each unit that the department serves shall pay the amount for the insurance coverage determined under the following formula:

STEP ONE: For each census block or other area in a unit that is served by more than one (1) volunteer fire department, divide the population of the area by the number of volunteer fire departments serving the area, and round the quotient to the nearest one thousandth (.001).

STEP TWO: Add the quotients determined under STEP ONE for the unit.

STEP THREE: Determine the sum of the STEP TWO amounts for all of the units served by the same volunteer fire department.

STEP FOUR: Divide the STEP TWO amount for a unit by the STEP THREE amount and round the quotient to the nearest one

thousandth (.001).

STEP FIVE: Multiply the costs of the insurance coverage for the volunteer fire department by the quotient determined under STEP FOUR, rounded to the nearest dollar.

(b) A diminution of insurance benefits may not occur under this section because of a change in the insurance carrier or a change as to who actually procures the required insurance.

(c) Each unit that has a volunteer fire department may procure an insurance policy for the benefit of auxiliary groups whose members could be injured while assisting the volunteer firefighters and emergency medical services personnel in the performance of their duties.

(d) Each unit that has a volunteer fire department may procure an insurance policy or any other type of instrument that provides retirement benefits as an incentive to volunteer firefighters and emergency medical services personnel for continued service.

(e) An insurance policy or other instrument containing any of the provisions authorized by subsection (d) may not be considered in the computation of nominal compensation for purposes of this chapter.

(f) A volunteer firefighter or member of the emergency medical services personnel who becomes covered by an insurance policy or other instrument containing any of the provisions authorized by subsection (d) does not thereby become eligible for membership in the public employees' retirement fund under IC 5-10.3.

(g) If a unit fails to provide the insurance for a volunteer firefighter or member of the emergency medical services personnel that this chapter requires it to provide, and a volunteer firefighter or member of the emergency medical services personnel suffers a loss of the type that the insurance would have covered, then the unit shall pay to that volunteer firefighter or member of the emergency medical services personnel the same amount of money that the insurance would have paid to the volunteer firefighter or member of the emergency medical services personnel.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.351-1987, SEC.1; P.L.268-1993, SEC.1; P.L.70-1995, SEC.7; P.L.1-1999, SEC.92; P.L.174-2009, SEC.3.

IC 36-8-12-7

Insurance; disability and medical expense coverage

Sec. 7. Each policy of insurance must provide for payment to a member of a volunteer fire department, for accidental injury or smoke inhalation caused by or occurring in the course of the performance of the duties of a volunteer firefighter or member of the emergency medical services personnel and for a cardiac disease event proximately caused within forty-eight (48) hours by or occurring in the course of the performance of the duties of a volunteer firefighter or member of the emergency medical services personnel while in an emergency situation, as follows:

(1) For total disability that prevents the member from pursuing the member's usual vocation:

(A) after June 30, 2009, and before July 24, 2009, a weekly indemnity of not less than two hundred sixty-two dollars (\$262); and

(B) after July 23, 2009, a weekly indemnity of not less than two hundred ninety dollars (\$290);

up to a maximum of two hundred sixty (260) weeks. After July 23, 2009, the weekly indemnity may not be less than the Indiana minimum wage computed on the basis of a forty (40) hour week.

(2) For medical expenses, coverage for incurred expenses. However, the policy may not have medical expense limits of less than seventy-five thousand dollars (\$75,000).

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.367-1983, SEC.1; P.L.348-1985, SEC.1; P.L.229-1996, SEC.3; P.L.1-1999, SEC.93; P.L.192-1999, SEC.2; P.L.174-2009, SEC.4.

IC 36-8-12-8

Insurance; death benefits; permanent disability; liability coverage; limitations on liability

Sec. 8. (a) The policy of insurance required by section 6 of this chapter must provide for the payment of a sum not less than one hundred fifty thousand dollars (\$150,000) to the beneficiary, beneficiaries, or estate of a volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel dies from an injury or smoke inhalation occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel or from a cardiac disease event proximately caused within forty-eight (48) hours by or occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

(b) The policy of insurance must provide for the payment of a sum not less than one hundred fifty thousand dollars (\$150,000) to the volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel becomes totally and permanently disabled for a continuous period of not less than two hundred sixty (260) weeks as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

(c) The policy of insurance must also provide for indemnification to a member of a volunteer fire department who becomes partially and permanently disabled or impaired as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties.

(d) For the purposes of this section, partial and permanent disability or impairment shall be indemnified as a percentage factor

of a whole person.

(e) In addition to other insurance provided volunteer firefighters or emergency medical services personnel under this chapter, each unit shall be covered by an insurance policy that provides a minimum of three hundred thousand dollars (\$300,000) of insurance coverage for the liability of all of the unit's volunteer firefighters or emergency medical services personnel for bodily injury or property damage caused by the firefighters or emergency medical services personnel acting in the scope of their duties while on the scene of a fire or other emergency. The civil liability of a volunteer firefighter or member of the emergency medical services personnel for:

- (1) an act that is within the scope of a volunteer firefighter's duties; or
- (2) the failure to do an act that is within the scope of a volunteer firefighter's duties;

while performing emergency services at the scene of a fire or other emergency or while traveling in an emergency vehicle from the fire station to the scene of the fire or emergency or from the scene of a fire or emergency back to the fire station is limited to the coverage provided by the insurance policy purchased under this subsection. A volunteer firefighter or member of the emergency medical services personnel is not liable for punitive damages for any act that is within the scope of a volunteer firefighter's or member of the emergency medical services personnel's duties. However, if insurance as required under this subsection is not in effect to provide liability coverage for a volunteer firefighter or member of the emergency medical services personnel, the firefighter or member of the emergency medical services personnel is not subject to civil liability for an act or a failure to act as described in this subsection.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.367-1983, SEC.2; P.L.204-1984, SEC.1; P.L.200-1986, SEC.2; P.L.217-1989, SEC.7; P.L.172-1990, SEC.1; P.L.268-1993, SEC.2; P.L.1-1999, SEC.94; P.L.192-1999, SEC.3; P.L.174-2009, SEC.5.

IC 36-8-12-9

Insurance premiums; payment from general fund

Sec. 9. All expenses incurred for premiums of the insurance required by this chapter shall be paid out of the general fund of the unit in the same manner as other expenses in the unit are paid.

As added by Acts 1981, P.L.309, SEC.64.

IC 36-8-12-10

Volunteers; medical treatment and burial expense coverage; determinations; premium expenses

Sec. 10. (a) A:

- (1) volunteer firefighter, a member of the emergency medical services personnel, or an emergency medical technician working in a volunteer capacity for a volunteer fire department or ambulance company is covered; and
- (2) volunteer working for a hazardous materials response team

may be covered;
by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(c) This subsection applies to all units, including counties. All expenses incurred for premiums of the insurance allowed under this section may be paid from the unit's general fund in the same manner as other expenses in the unit are paid.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.198-1988, SEC.1; P.L.3-1989, SEC.230; P.L.172-1990, SEC.2; P.L.72-1992, SEC.5; P.L.1-1999, SEC.95; P.L.174-2009, SEC.6.

IC 36-8-12-10.5

Employees of political subdivisions; volunteer firefighting or volunteer member activity

Sec. 10.5. (a) This section does not apply to an employee of the state subject to IC 4-15-10-7.

(b) This section applies to an employee of a political subdivision who:

- (1) is a volunteer firefighter or volunteer member; and
- (2) has notified the employee's employer in writing that the employer is a volunteer firefighter or volunteer member.

(c) The political subdivision employer may not discipline an employee:

- (1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment;
- (2) for leaving the employee's duty station to respond to a fire or an emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work; or
- (3) for:
 - (A) an injury; or
 - (B) an absence from work because of an injury; that occurs while the employee is engaged in emergency firefighting or other emergency response.

However, for each instance of emergency firefighting activity or other emergency response that results in an injury to an employee, subdivision (3) applies only to the period of the employee's absence from work that does not exceed six (6) months from the date of the injury.

(d) The political subdivision employer may require an employee who has been absent from employment as set forth in subsection (c) to present a written statement from the fire chief or other officer in charge of the volunteer fire department, or officer in charge of the volunteer emergency medical services association, at the time of the

absence or injury indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence or injury.

(e) The political subdivision employer may require an employee who is injured or absent from work as described in subsection (c)(3) to provide evidence from a physician or other medical authority showing:

- (1) treatment for the injury at the time of the absence; and
- (2) a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(f) To the extent required by federal or state law, information obtained under subsection (e) by a political subdivision employer must be:

- (1) retained in a separate medical file created for the employee; and
- (2) treated as a confidential medical record.

(g) An employee who is disciplined by the employer in violation of subsection (c) may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following:

- (1) Payment of back wages.
- (2) Reinstatement to the employee's former position.
- (3) Fringe benefits wrongly denied or withdrawn.
- (4) Seniority rights wrongly denied or withdrawn.

An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

(h) A public servant who permits or authorizes an employee of a political subdivision under the supervision of the public servant to be absent from employment as set forth in subsection (c) is not considered to have committed a violation of IC 35-44.1-1-3(b).

As added by P.L.49-2004, SEC.1. Amended by P.L.43-2005, SEC.3; P.L.63-2009, SEC.2; P.L.126-2012, SEC.64.

IC 36-8-12-10.7

Employees of private employers; volunteer firefighting or volunteer member activity

Sec. 10.7. (a) This section applies to an employee of a private employer who:

- (1) is a volunteer firefighter or volunteer member; and
- (2) has notified the employee's employer in writing that the employee is a volunteer firefighter or volunteer member.

(b) Except as provided in subsection (c), the employer may not discipline an employee:

- (1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment;
- (2) for leaving the employee's duty station to respond to a fire or emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the

employee has reported to work; or

(3) for:

(A) an injury; or

(B) an absence from work because of an injury;

that occurs while the employee is engaged in emergency firefighting or other emergency response.

However, for each instance of emergency firefighting activity or other emergency response that results in an injury to an employee, subdivision (3) applies only to the period of the employee's absence from work that does not exceed six (6) months from the date of the injury.

(c) After the employer has received the notice required under subsection (a)(2), the employer may reject the notification from the employee on the grounds that the employee is an essential employee to the employer. If the employer has rejected the notification of the employee:

(1) subsection (b) does not apply to the employee; and

(2) the employee must promptly notify the:

(A) fire chief or other officer in charge of the volunteer fire department; or

(B) the officer in charge of the volunteer emergency medical services association;

of the rejection of the notice of the employee who is a volunteer firefighter or a volunteer member.

(d) The employer may require an employee who has been absent from employment as set forth in subsection (b) to present a written statement from the fire chief or other officer in charge of the volunteer fire department, or officer in charge of the emergency medical services association, at the time of the absence or injury indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence or injury.

(e) The employer may require an employee who is injured or absent from work as described in subsection (b)(3) to provide evidence from a physician or other medical authority showing:

(1) treatment for the injury at the time of the absence; and

(2) a connection between the injury and the employee's emergency firefighting or other emergency response activities.

(f) To the extent required by federal or state law, information obtained under subsection (e) by an employer must be:

(1) retained in a separate medical file created for the employee; and

(2) treated as a confidential medical record.

As added by P.L.43-2005, SEC.4. Amended by P.L.63-2009, SEC.3.

IC 36-8-12-10.9

Notice of absence; remuneration

Sec. 10.9. (a) The employer may require an employee who will be absent from employment as set forth in:

(1) section 10.5(c)(1); or

(2) section 10.7(b)(1);

of this chapter to notify the employer before the scheduled start time for the absence from employment to be excused by the employer.

(b) The employer is not required to pay salary or wages to an employee who has been absent from employment as set forth in section 10.5(c) or 10.7(b) of this chapter for the time away from the employee's duty station. The employee may seek remuneration for the absence from employment by the use of:

- (1) vacation leave;
- (2) personal time;
- (3) compensatory time off; or
- (4) in the case of an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) of this chapter, sick leave.

(c) An employer shall administer an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) of this chapter in a manner consistent with the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), as amended and in effect on January 1, 2009.

As added by P.L.43-2005, SEC.5. Amended by P.L.63-2009, SEC.4; P.L.1-2010, SEC.153.

IC 36-8-12-11

Blue lights on private vehicles; authorization; violations

Sec. 11. (a) Members of volunteer fire departments may display blue lights on their privately owned vehicles while en route to scenes of emergencies or to the fire station in the line of duty subject to the following conditions:

- (1) A light must have a light source of at least thirty-five (35) watts.
- (2) All lights must be placed on the:
 - (A) top of the vehicle;
 - (B) dashboard inside a vehicle, shielded to prevent distracting the driver; or
 - (C) front of the vehicle upon the bumper or at bumper level.
- (3) No more than four (4) blue light assemblies may be displayed on one (1) vehicle, and each blue light assembly must be of the flashing or revolving type.
- (4) A blue light assembly may contain multiple bulbs.
- (5) A blue light may not be a part of the regular head lamps displayed on the vehicles. Alternately flashing head lamps may be used as a supplemental warning device. Strobe lights or flashers may be installed into the light fixtures on the vehicle other than the alternating head lamps. The strobe lights or flashers may be either white or blue, with the exception of red to the rear.

(b) In order for a volunteer firefighter to display a blue light on a vehicle, the volunteer firefighter must secure a written permit from the chief of the volunteer fire department to use the blue light and must carry the permit at all times when the blue light is displayed.

(c) A person who is not a member of a volunteer fire department may not display an illuminated blue light on a vehicle.

(d) A permittee of the owner of a vehicle lawfully equipped with a blue light may operate the vehicle only if the blue light is not illuminated.

(e) A person who violates subsection (a), (b), (c), or (d) commits a Class C infraction. If the violator is a member of a volunteer fire department, the chief of the department shall discipline the violator under fire department rules and regulations.

(f) This section does not grant a vehicle displaying blue lights the right-of-way under IC 9-21-8-35 or exemption from traffic rules under IC 9-21-1-8. A driver of a vehicle displaying a blue light shall obey all traffic rules.

(g) This section shall not be construed to include a vehicle displaying a blue light and driven by a member of a volunteer fire department as an authorized emergency vehicle (as defined in IC 9-13-2-6).

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.88-1990, SEC.4; P.L.2-1991, SEC.108; P.L.99-1991, SEC.4; P.L.1-1999, SEC.96; P.L.6-2001, SEC.1; P.L.153-2002, SEC.2.

IC 36-8-12-12

Nonfire emergency activities; duties of fire chief

Sec. 12. When a volunteer fire department is responding to a fire call and there is no other fire department with overriding jurisdiction present, the fire chief, or in his absence the ranking officer, shall direct all nonfire emergency activities at the scene until a law enforcement officer arrives on the scene.

As added by Acts 1981, P.L.309, SEC.64. Amended by P.L.1-1999, SEC.97.

IC 36-8-12-13

Charges; owners of property or vehicle involved in fire or spill; failure to pay; administrative fees

Sec. 13. (a) Except as provided in subsection (b), the volunteer fire department that responds first to an incident may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in IC 13-11-2-191(e)) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

- (1) that is responded to by the volunteer fire department; and
- (2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

A second or subsequently responding volunteer fire department may not impose a charge on an owner or responsible party under this section, although it may be entitled to reimbursement from the first responding volunteer fire department in accordance with an interlocal or other agreement.

- (b) A volunteer fire department that is funded, in whole or in part:
- (1) by taxes imposed by a unit; or
 - (2) by a contract with a unit;

may not impose a charge under subsection (a) on a natural person

who resides or pays property taxes within the boundaries of the unit described in subdivision (1) or (2), unless the spill or the chemical or hazardous material fire poses an imminent threat to persons or property.

(c) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under section 16 of this chapter. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

(1) deposited in the township firefighting fund established in IC 36-8-13-4;

(2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or

(3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(d) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(e) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(f) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

(g) The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a) and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

As added by P.L.315-1989, SEC.1. Amended by P.L.18-1990, SEC.294; P.L.70-1995, SEC.8; P.L.2-1996, SEC.293; P.L.1-1996, SEC.92; P.L.50-1998, SEC.3; P.L.1-1999, SEC.98; P.L.107-2007, SEC.15; P.L.127-2009, SEC.12; P.L.182-2009(ss), SEC.435; P.L.1-2010, SEC.154; P.L.208-2011, SEC.1.

IC 36-8-12-15

Liability limits; punitive damages

Sec. 15. The combined aggregate liability of a volunteer fire department for an act or failure to act that is within the scope of the department's duties does not exceed three hundred thousand dollars (\$300,000) for injury to or death of one (1) person in any one (1) occurrence and does not exceed five million dollars (\$5,000,000) for injury to or death of all persons in that occurrence. A volunteer fire department is not liable for punitive damages.

As added by P.L.217-1989, SEC.8. Amended by P.L.1-1999, SEC.99.

IC 36-8-12-16

Schedule of charges for service; conditions for collection; reports; failure to pay

Sec. 16. (a) A volunteer fire department that provides service within a jurisdiction served by the department may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire department or its agent may collect a service charge according to this schedule from the owner of property that receives service if the following conditions are met:

(1) At the following times, the department gives notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the service charge for each service that the department provides:

(A) Before the schedule of service charges is initiated.

(B) When there is a change in the amount of a service charge.

(2) The property owner has not sent written notice to the department to refuse service by the department to the owner's property.

(3) The bill for payment of the service charge:

(A) is submitted to the property owner in writing within thirty (30) days after the services are provided;

(B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report;

(C) must contain verification that the bill has been approved by the chief of the volunteer fire department; and

(D) must contain language indicating that correspondence from the property owner and any question from the property owner regarding the bill should be directed to the department.

(4) Payment is remitted directly to the governmental unit providing the service.

(b) A volunteer fire department shall use the revenue collected from the fire service charges under this section:

(1) for the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;

(2) for deposit in the township firefighting fund established under IC 36-8-13-4; or

(3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

(f) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

(g) A volunteer fire department that:

- (1) has contracted with a political subdivision to provide fire protection or emergency services; and
- (2) charges for services under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

(h) The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

(i) The volunteer fire department or its agent may maintain a civil action to recover an unpaid service charge under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

As added by P.L.63-1991, SEC.8. Amended by P.L.70-1995, SEC.9; P.L.2-1996, SEC.294; P.L.1-1996, SEC.93; P.L.1-1998, SEC.213; P.L.50-1998, SEC.4; P.L.1-1999, SEC.100; P.L.240-2001, SEC.2; P.L.107-2007, SEC.16; P.L.3-2008, SEC.266; P.L.182-2009(ss), SEC.436; P.L.208-2011, SEC.2.

IC 36-8-12-17

False alarm service charges

Sec. 17. (a) If a political subdivision has not imposed its own false alarm fee or service charge, a volunteer fire department that provides service within the jurisdiction may establish a service charge for responding to false alarms. The volunteer fire department may collect the false alarm service charge from the owner of the property if the volunteer fire department dispatches firefighting apparatus or personnel to a building or premises in the township in response to:

- (1) an alarm caused by improper installation or improper maintenance; or
- (2) a drill or test, if the fire department is not previously notified that the alarm is a drill or test.

However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge.

(b) Before establishing a false alarm service charge, the volunteer fire department must provide notice under IC 5-3-1-4(d) in each

political subdivision served by the department of the amount of the false alarm service charge. The notice required by this subsection must be given:

- (1) before the false alarm service charge is initiated; and
- (2) before a change in the amount of the false alarm service charge.

(c) A volunteer fire department may not collect a false alarm service charge from a property owner or alarm company unless the department's bill for payment of the service charge:

- (1) is submitted to the property owner in writing within thirty (30) days after the false alarm; and
- (2) includes a copy of a fire incident report in the form prescribed by the state fire marshal.

(d) A volunteer fire department shall use the money collected from the false alarm service charge imposed under this section:

- (1) for the purchase of equipment, buildings, and property for fire fighting, fire protection, or other emergency services;
- (2) for deposit in the township firefighting fund established under IC 36-8-13-4; or
- (3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(e) If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the false alarm service charge established under subsection (a) before the service charge is initiated in that political subdivision.

(f) A volunteer fire department that:

- (1) has contracted with a political subdivision to provide fire protection or emergency services; and
- (2) imposes a false alarm service charge under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of false alarm charges collected during the previous calendar year and how those funds have been expended.

(g) The volunteer fire department may maintain a civil action to recover unpaid false alarm service charges imposed under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

As added by P.L.82-2001, SEC.2. Amended by P.L.107-2007, SEC.17; P.L.208-2011, SEC.3.

IC 36-8-12-18

Confidential information; exceptions

Sec. 18. (a) A volunteer fire department may declare the following records confidential for purposes of IC 5-14-3:

- (1) Personnel files of members of the volunteer fire department.

(2) Files of applicants to the volunteer fire department. However, all personnel file information shall be made available to an affected member or the member's representative.

(b) Notwithstanding subsection (a), a volunteer fire department may not declare the following information contained in files described in subsection (a) confidential:

(1) The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former members of the volunteer fire department.

(2) Information relating to the status of any formal charges against a member.

(3) The factual basis for a disciplinary action in which final action has been taken and that resulted in the member being suspended, demoted, or discharged.

(c) This section does not apply to disclosure of personnel information generally on all members or for groups of members without the request being particularized by member name.

As added by P.L.101-2006, SEC.38.

IC 36-8-12-19

Suspension or termination of EMS personnel; right to hearing and appeal

Sec. 19. (a) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(b) If a medical director takes any of the following actions against a member of the emergency medical services personnel, the medical director shall provide to the member and to the chief of the member's volunteer fire department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the member.

(2) The medical director refuses or fails to attest to the competency of the member to perform emergency medical services.

(3) The medical director suspends the member from performing emergency medical services.

(c) Before a volunteer fire department takes an action that affects the member's appointment with the volunteer fire department as the result of a medical director's action described in subsection (b), the member is entitled to a hearing and appeal concerning the medical director's action as provided in IC 36-8-3-4. The safety board of the unit that entered into an agreement with the volunteer fire department under section 3 of this chapter shall hear the member's appeal provided by this subsection.

(d) If the medical director's action that is the subject of an appeal under subsection (c) is based on a health care decision made by the

member in performing emergency medical services, the safety board conducting the hearing shall consult with an independent medical expert to determine whether the member followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

- (1) must be a physician trained in emergency medical services;
- and
- (2) may not be affiliated with the same hospital as the medical director.

As added by P.L.13-2010, SEC.5.