



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 6.9. Liability for Abatement of Hazards [25400- 25400.] (*Chapter 6.9 added by Stats. 1983, Ch. 1087, Sec. 1.*)

25400. (a) The Legislature finds and declares that a threat to the public health and safety exists wherever there is a discharge, spill, or presence of hazardous substances on public or private property; and that public entities, county public health directors, public safety employees, members of radiation emergency screening teams formed pursuant to Section 25574, persons authorized by a public entity, or registered sanitarian employees should be encouraged to abate those hazards, and to that end a qualified immunity from liability should be provided for public entities, county public health directors, public safety employees, members of radiation emergency screening teams formed pursuant to Section 25574, persons authorized by a public entity, or registered sanitarian employees.

(b) Except as provided in Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code, a public entity, county public health director, a public safety employee, a member of a radiation emergency screening team formed pursuant to Section 25574, a person authorized by a public entity, or a registered sanitarian employee shall not be liable for any injury or property damage caused by an act or omission taken by a county public health director, a public safety employee, a member of a radiation emergency screening team formed pursuant to Section 25574, a person authorized by a public entity, or a registered sanitarian employee acting within the scope of employment to abate or attempt to abate hazards reasonably believed to be an imminent peril to public health and safety caused by the discharge, spill, or presence of a hazardous substance, unless the act taken or omission was performed in bad faith or in a grossly negligent manner.

(c) For the purposes of this section, it shall be presumed that the act or omission was performed in good faith and without gross negligence. This presumption shall be one affecting the burden of proof.

(d) For the purposes of this section, the following definitions apply:

(1) "Hazardous substance" means a substance that presents a threat to the public because of its toxicity, radioactivity, flammability, or other characteristic dangerous to the public health or the environment.

(2) "Imminent peril" includes a peril which, if not mitigated, threatens the public health or welfare, or the environment.

(3) "Person authorized by a public agency" includes a person from whom services are contracted by a public agency.

(4) "Public agency" includes, but is not limited to, the federal government or any department or agency thereof to the extent permitted by law.

(5) "Public safety employee" means any person who is a public entity employee and whose principal duties include law enforcement, fire protection, fire prevention, or the enforcement of regulations relating to facilities or sites where hazardous substances are stored or handled.

(6) "Registered sanitarian employee" means a person who is registered pursuant to Section 520 and who is a paid employee of a state or local public entity.

(e) It is not the intent of this section to impair any cause of action against the person, firm, or entity creating the spill, discharge, or presence of the hazardous material giving rise to the response of the public entity, county public health director, public safety employee, member of a radiation screening team formed pursuant to Section 25574, person authorized by a public entity, or registered sanitarian employee.

(f) The immunity for county public health directors or registered sanitarian employees provided by this section shall apply only where the person, at the request of a public entity or public safety employee in charge of scene management, provides emergency assistance or advice at the scene of the peril in mitigating or attempting to mitigate the effects of an actual or threatened discharge, spill, or presence of a hazardous substance on private or public property. The request issued by the scene manager shall be confirmed by that person in a written report of the incident.

(Amended by Stats. 1991, Ch. 1123, Sec. 13. Effective October 14, 1991.)