

Senate Bill 336

By: Senators Thomas of the 54th, Price of the 56th, Thomas of the 10th, Mullis of the 53rd,
Moody of the 27th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to torts, so as to provide immunity for certain hospitals, their
3 agents or employees, health care providers, health care workers, and certain other persons
4 participating in the federal smallpox vaccination and treatment program; to provide for
5 legislative findings; to provide for applicability; to provide an effective date; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The Georgia General Assembly makes the following findings: The attacks of September and
10 October, 2001, on the United States have heightened concerns that terrorists may have access
11 to the smallpox virus and may attempt to use it against the American public. In light of these
12 concerns, and in order to secure public health and national security, the United States
13 government has launched, and the State of Georgia has cooperated in, a smallpox vaccination
14 and treatment program, with a recommendation for initial smallpox vaccinations for certain
15 hospitals, health care workers, and emergency response workers. However, due to the
16 virulent nature of smallpox and its vaccine, participation by hospitals and health care workers
17 in such a program potentially increases their exposure to liability that, without sufficient legal
18 protections, may significantly discourage their participation in the program. The federal
19 government has determined, and the General Assembly agrees, that liability protection for
20 those hospitals and health care workers who participate in such programs are integral to
21 ensuring its maximum success. Accordingly, to achieve a potent and widespread smallpox
22 vaccination and treatment program and maintain an effective defense against possible
23 terrorist attacks, it is critical that hospitals and health care workers participating in such
24 program be protected from potential legal liability absent their gross negligence or willful
25 or wanton misconduct. The General Assembly therefore concludes that certain steps must
26 be taken to encourage participation in the smallpox vaccination and treatment program in

1 order to reserve to Georgia citizens continued access to smallpox vaccination and treatment
2 services in the event of a terrorist attack.

3 **SECTION 2.**

4 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
5 provisions relative to torts, is amended by inserting after Code Section 51-1-29.3, relating
6 to immunity for operators of external defibrillators, a new Code section to read as follows:
7 "51-1-29.4.

8 (a) Without waiving or affecting and cumulative of any existing immunity from any
9 source, unless it is established that injuries or death were caused by gross negligence or
10 willful or wanton misconduct:

11 (1) No licensed hospital which participates in a smallpox vaccination and treatment
12 program authorized by the United States Secretary of Health and Human Services or the
13 United States Public Health Service of the State of Georgia or employees, agents, or
14 health care workers of such hospital; and

15 (2) No licensed health care provider, health care worker, or other person who participates
16 in such smallpox vaccination and treatment program, whether or not such provider,
17 workers, or person is an agent or employee of said hospital

18 shall be liable for damages or injuries alleged to have been sustained by any individual by
19 reason of such individual's receipt of a smallpox vaccination or treatment, such
20 individual's exposure to smallpox or its related infections, or any act or omission
21 committed by said hospital, employee, agent, health care provider, health care worker, or
22 other person as a result of such individual's receipt of services from or related to such
23 smallpox vaccination and treatment program.

24 (b) This Code section shall apply only to causes of action arising on or after the effective
25 date of this Code section."

26 **SECTION 3.**

27 This Act shall become effective upon its approval by the Governor or upon its becoming law
28 without such approval.

29 **SECTION 4.**

30 All laws and parts of laws in conflict with this Act are repealed.