Senate Bill 413
By: Senators McKoon of the 29th and Albers of the 56th

A BILL TO BE ENTITLED

AN ACT

To amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to define certain terms; to provide that an emergency responder who is injured or killed in the line of duty may recover damages against any person whose neglect, willful omission, or willful or culpable conduct contributed to such injury or death; to repeal the common law fireman's rule in Georgia; to provide that an emergency responder who enters onto land in his or her official duties shall have the status of an invitee; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising Code Section 51-1-30, relating to liability of officers and agents for acts performed while fighting fires or performing duties at the scene of emergencies, as follows:

"51-1-30.

(a) As used in this Code section, the term:

(1) 'Emergency medical technician' means a person who has been certified by the department after having successfully completed an emergency medical care training program approved by the Department of Public Health.

(2) 'Emergency responder' means an emergency medical technician, firefighter, first responder, paramedic, and peace officer.

(3) 'Fire department' includes volunteer fire departments established pursuant to local act, ordinance, or resolution or established as nonprofit corporations pursuant to private subscription and any fire department established as a department, bureau, or agency of a municipality, county, fire district, or authority of this state.

(4) 'Firefighter' means a trained individual who is a full-time employee, part-time employee, or volunteer for a municipal, county, state, or private incorporated fire department and as such has duties of responding to mitigate a variety of emergency and
nonemergency situations where life, property, or the environment is at risk, which may include without limitation fire suppression; fire prevention activities; emergency medical services; hazardous materials response and preparedness; technical rescue operations; search and rescue; disaster management and preparedness; community service activities; response to civil disturbances and terrorism incidents; nonemergency functions including training, preplanning, communications, maintenance, and physical conditioning; and other related emergency and nonemergency duties as may be assigned or required; provided, however, that a firefighter's assignments may vary based on geographic, climatic, and demographic conditions or other factors including training, experience, and ability.

(5) 'First responder' means any person or agency who provides on-site care until the arrival of a duly licensed ambulance service.

(6) 'Paramedic' means any person who has been certified by the composite board before January 1, 2002, or by the department on or after January 1, 2002, as having been trained in emergency care techniques in a paramedic training course approved by the Department of Public Health.

(7) 'Peace officer' means:

(A) An agent, operative, or officer of this state, a subdivision or municipality thereof, or a railroad who, as an employee for hire or as a volunteer, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws through the power of arrest and whose duties include the preservation of public order, the protection of life and property, and the prevention, detection, or investigation of crime;

(B) An enforcement officer who is employed by the Department of Transportation in its Office of Permits and Enforcement and any person employed by the Department of Juvenile Justice who is designated by the commissioner to investigate and apprehend delinquent children and any child with a pending juvenile court case alleging the child to be a child in need of services;

(C) Personnel who are authorized to exercise the power of arrest, who are employed or appointed by the Department of Juvenile Justice, and whose full-time duties include the preservation of public order, the protection of life and property, the detection of crime, or the supervision of delinquent children in the department's institutions, facilities, or programs;

(D) Personnel who are authorized to exercise the power of arrest and who are employed or appointed by the Department of Corrections, the State Board of Pardons and Paroles, municipal correctional institutions employing 300 or more correctional officers, county probation systems, and county correctional institutions; and
(E) An administrative investigator who is an agent, operative, investigator, or officer of this state whose duties include the prevention, detection, and investigation of violations of law and the enforcement of administrative, regulatory, licensing, or certification requirements of his or her respective employing agency.

Law enforcement support personnel are not peace officers within the meaning of this Code section, but they may be certified upon voluntarily complying with the certification provisions of this Code section.

(b) The officers, members, agents, or employees of any fire department established by any county, municipality, fire district, or authority shall not be liable at law for any act or acts done while actually fighting a fire or performing duties at the scene of an emergency, except for willful negligence or malfeasance.

(c) This Code section shall not affect the right of any party to recover damages for an act which occurred before July 1, 1980.

(d) Whenever any emergency responder suffers an injury, disease, or death while in the lawful discharge of his or her official duties, and that injury, disease, or death is directly or indirectly the result of the neglect, willful omission, or willful or culpable conduct of any person or entity other than the employer or a co-employee of such emergency responder, then such emergency responder or a representative of his or her estate may seek recovery of damages from the person or entity whose neglect, willful omission, or willful or culpable conduct resulted in the injury, disease, or death. The remedy provided in this Code section shall be in addition to any other right of action or recovery otherwise available under law.

(e) The common law 'firefighter's rule' recognized by Georgia courts in 

Peachtree South, Ltd., 182 Ga. App. 367 (1987), and subsequent judicial decisions which bar recovery by police officers, firefighters, and other professional rescuers of damages incurred in the course of their duties, even in cases of clear negligence by other parties, is abolished in this state."

SECTION 2.

Said title is further amended by revising Code Section 51-3-1, relating to the duty of the owner or occupier of land to invitee, as follows:

(a) As used in this Code section, the term:

(1) 'Emergency medical technician' means a person who has been certified by the department after successfully completed an emergency medical care training program approved by the Department of Public Health.

(2) 'Emergency responder' means an emergency medical technician, firefighter, first responder, paramedic, and peace officer.
'(3) 'Firefighter' means a trained individual who is a full-time employee, part-time employee, or volunteer for a municipal, county, state, or private incorporated fire department and as such has duties of responding to mitigate a variety of emergency and nonemergency situations where life, property, or the environment is at risk, which may include without limitation fire suppression; fire prevention activities; emergency medical services; hazardous materials response and preparedness; technical rescue operations; search and rescue; disaster management and preparedness; community service activities; response to civil disturbances and terrorism incidents; nonemergency functions including training, preplanning, communications, maintenance, and physical conditioning; and other related emergency and nonemergency duties as may be assigned or required; provided, however, that a firefighter's assignments may vary based on geographic, climatic, and demographic conditions or other factors including training, experience, and ability.

'(4) 'First responder' means any person or agency who provides on-site care until the arrival of a duly licensed ambulance service.

'(5) 'Paramedic' means any person who has been certified by the composite board before January 1, 2002, or by the department on or after January 1, 2002, as having been trained in emergency care techniques in a paramedic training course approved by the Department of Public Health.

'(6) 'Peace officer' means:

(A) An agent, operative, or officer of this state, a subdivision or municipality thereof, or a railroad who, as an employee for hire or as a volunteer, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws through the power of arrest and whose duties include the preservation of public order, the protection of life and property, and the prevention, detection, or investigation of crime;

(B) An enforcement officer who is employed by the Department of Transportation in its Office of Permits and Enforcement and any person employed by the Department of Juvenile Justice who is designated by the commissioner to investigate and apprehend delinquent children and any child with a pending juvenile court case alleging the child to be a child in need of services;

(C) Personnel who are authorized to exercise the power of arrest, who are employed or appointed by the Department of Juvenile Justice, and whose full-time duties include the preservation of public order, the protection of life and property, the detection of crime, or the supervision of delinquent children in the department's institutions, facilities, or programs:
(D) Personnel who are authorized to exercise the power of arrest and who are employed or appointed by the Department of Corrections, the State Board of Pardons and Paroles, municipal correctional institutions employing 300 or more correctional officers, county probation systems, and county correctional institutions; and

(E) An administrative investigator who is an agent, operative, investigator, or officer of this state whose duties include the prevention, detection, and investigation of violations of law and the enforcement of administrative, regulatory, licensing, or certification requirements of his or her respective employing agency.

Law enforcement support personnel are not peace officers within the meaning of this Code section, but they may be certified upon voluntarily complying with the certification provisions of this Code section.

(b) Where an owner or occupier of land, by express or implied invitation, induces or leads others to come upon his or her premises for any lawful purpose, he or she is liable in damages to such persons for injuries caused by his or her failure to exercise ordinary care in keeping the premises and approaches safe.

(c) Emergency responders who enter upon land owned or occupied by another for the purpose of carrying out their official duties shall occupy the status of invitee.

SECTION 3.

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