



VOLUNTEER DRIVER LIABILITY AND IMMUNITY



NATIONAL
CONFERENCE
of
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A 50-State Survey

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In September 2006, the National Conference of State Legislatures (NCSL) entered into an agreement with AARP to survey state laws related to insurance and liability for volunteer drivers. This report summarizes NCSL's findings. It includes an overview of transportation programs that use volunteer drivers, a summary of research questions and project limitations, information about relevant federal laws, and a detailed analysis of state laws and practices. The report is intended to supplement a detailed map of state statutes posted on NCSL's web site.

Overview

Personal mobility is fundamentally important. Mobility permits freedom and independence. It allows access to basic necessities such as grocery shopping and health care. Mobility means greater choices for employment, socializing, eating out, going to movies, visiting friends, and participating in other recreational activities.

Mobility, however, can easily be taken for granted. For many people, the greatest mobility challenge is finding the key to the car or locating a bus or metro stop within walking distance. However, for a growing number of Americans—those who may be impaired by age, disability or income—mobility can be much more difficult.

According to the U.S. Census Bureau, the number of people age 65 and older rose by more than 3 million during the last decade to more than 35 million in 2000.¹ The number of Americans age 85 and older grew by more than 1.1 million during the same time, to more than 4.2 million.² By 2025, the bureau projects the number of Americans age 65 and older will increase by nearly 80 percent, to more than 62 million.³

For many senior citizens, common age-related conditions—such as loss of vision and slower response times—can make it difficult to drive or retain a driver's license. A 2002 AARP survey found that 16 percent of respondents over age 75 reported not having a driver's license in 2001, and 25 percent had not driven at least once in the last month.⁴ Other age-related impairments, such as frailty, can diminish the ability to walk to bus or metro stops and can make it difficult for seniors to access alternate transportation. The National Household Transportation Survey conducted by the U.S. Department of Transportation in 2001 found that more than 50 percent of non-drivers age 65 and older—or 3.6 million Americans—stay home on any given day in part because they lack transportation.⁵

Disabilities also can prevent driving or easy access to public transportation. The 2000 census counted 49.7 million people—representing 19.3 percent of the noninstitutionalized population age 5 and older—with some type of long-lasting condition or disability.⁶ According to the census, 21.2 million people have a condition that limits basic physical activities such as walking, climbing stairs, reaching, lifting or carrying. Among those people age 16 to 64, 21.3 million suffered from a condition that affected their ability to work at a job or business.⁷ A National Organization on Disabilities survey found that 30 percent of respondents with disabilities had trouble accessing transportation, compared to 10 percent of respondents without disabilities.⁸

The number of people whose mobility is limited by poverty also is growing. According to the U.S. Census Bureau, the number of poor rose for the second consecutive year in 2002. The bureau reported that 12.1 percent—or 34.6 million people—were living in poverty, up from 11.7 percent—32.9 million people—in 2001.⁹ For those living at or below the poverty line, the costs to purchase, insure and maintain a car often are prohibitive. It is estimated that 90 percent of public assistance recipients do not own a car.¹⁰

Many programs are available that can improve mobility and services for transportation-disadvantaged populations. A 2003 report by the U.S. General Accountability Office (GAO) identified 62 federal programs that fund transportation services for transportation-disadvantaged populations, including 16 federal programs that routinely provide transportation.¹¹ Special transportation services—often referred to as special transit or community based transportation—also are available through state and local agencies, nonprofit organizations, religious charities and for-profit companies. Many of these governmental and nongovernmental entities improve mobility directly by providing low-cost or free transportation. Other programs are intended to help people in their homes by providing meal delivery or in-home medical services.

A key ingredient to the success of many special transportation programs is the use of volunteer drivers. Volunteers can significantly reduce costs by operating vehicles without compensation. Although some programs allow volunteers to operate vehicles owned by the agency or organization, in many programs volunteers drive clients in their own personal cars. Although some volunteers are compensated for their costs, many volunteers are responsible for vehicle maintenance, insurance premiums and other expenses. Volunteers also provide intangibles such as positive attitudes and personal connections to their clients.

Although volunteer drivers are an important asset, there are significant legal ambiguities about their use. The core concerns revolve around liability and insurance coverage. Across the country, practices vary. In many jurisdictions, program operators are unsure if they are liable for traffic incidents involving their volunteer drivers and whether they should correspondingly extend their insurance coverage to compensate. In some places, volunteer drivers may be immune from liability. Other jurisdictions make drivers, and the organizations that use them, more vulnerable to civil lawsuits.

The unknown risk of civil liability can significantly affect the ability to establish and maintain low-cost transportation programs for transportation-disadvantaged populations. Insurance companies may be reluctant to allow drivers and special transportation agencies and organizations to cover their volunteer activities with normal insurance policies. Anecdotally, organization officials in some jurisdictions have reported that volunteers were required to obtain special clauses or carry higher insurance amounts to cover the extra use of their personal vehicles for regular volunteer activities. Volunteers who operate regular routes or work for shared cost programs could be categorized by some insurance companies as “for-hire” drivers and be required to pay premiums similar to the much higher rates for taxi cab drivers.

Ambiguities about civil liability can make it difficult for agencies and organizations that use volunteer drivers to obtain adequate insurance and manage long-term costs. Special transportation programs may need to enhance insurance coverage, and services could be significantly affected by the increased expenses. Additionally, uncertain risks can make it more difficult to recruit and retain volunteer drivers. New volunteers might be deterred by liability concerns or unwilling to pay substantially higher insurance premiums for the use of their personal vehicles.

Research Approach and Limitations

The goal of this project was to identify state laws and practices related to volunteer driver liability. This report does not attempt to definitively determine the circumstances under which volunteers or the agencies, organizations or companies that engage their services might be liable. Nor does it provide a comprehensive analysis of insurance practices in all 50 states and in the U.S. territories. Instead, the report catalogs state statutes that affect civil liability for incidents involving volunteer drivers and provides supplementary information on the experiences of service providers.

NCSL examined the U.S. Code as well as statutes in all 50 states, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands. However, given the time constraints and overall

purposes of the project, NCSL did not research state administrative codes or regulations governing state agency use of volunteer drivers. Additionally, NCSL did not examine any local ordinances. It is important to acknowledge that in some examples, regulations, administrative codes and local laws could affect volunteer driver liability.

NCSL staff also interviewed service providers in many states and performed other background research. The interviews, while helpful, were not intended to provide a comprehensive assessment of all practices and procedures for all agencies, organizations, companies and insurance companies that touch the volunteer driver issue. It is important to consider that experiences within states can differ. The representative of a single agency or organization might not be able to provide an accurate appraisal of practices throughout the entire jurisdiction.

Although NCSL's research and interviews helped identify state laws and common practices, it also raised many legal questions that could not be fully answered within the scope of this project. NCSL did not examine case law in all 50 states to determine whether courts had fully settled these legal questions, nor did NCSL determine how these issues had been decided in states with developed legal precedent.

Finally, in most states, volunteers who work for government agencies can be considered government employees and can therefore enjoy certain sovereign immunity protections from liability. NCSL did not attempt to detail sovereign immunity laws in all jurisdictions. Instead, this report documents laws that specifically address volunteers and protections for volunteers.

Summary Analysis

It is difficult to easily characterize or summarize state laws and practices concerning civil liability for volunteer drivers. Many state statutes are unclear. Every state provides limited immunity to at least some volunteers for acts or omissions resulting in damage or injury while the volunteer was performing his or her duties. However, immunities are not uniform. In many examples, volunteer protections vary within states depending on whether the volunteer's services are engaged by a government agency, nonprofit organization, religious charity or for-profit company.

States vary on the specific treatment of volunteer drivers. Approximately half specifically exclude acts committed in motor vehicles from immunity protections. Conversely, two states, Georgia and Oregon, provide explicit protections from civil liability for volunteer drivers. In the remaining jurisdictions, the law regarding volunteer driver liability is unsettled. Legal arguments could be made either way. The ambiguity in state law seems to have made it difficult for service providers to determine the most appropriate insurance coverage.

Federal Law

The federal Volunteer Protection Act (VPA) grants some protection for volunteers as well as guidance for states, but does not govern many civil actions in state courts.¹² The act preempts state authority when it is inconsistent with the federal law but allows states to establish additional protections beyond the federal requirements. Additionally, the law defines several specific provisions in state volunteer liability protection acts that would not conflict with the federal laws.

The VPA makes volunteers of nonprofit organizations or governmental entities generally immune from civil liability for harm caused by an act or omission of the volunteer acting in his or her official responsibilities on behalf of the organization or entity. There are some exceptions. The volunteer is not immune under the act if he or she was not properly licensed or if the harm was caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer. Additionally, the volunteer is not immune if the misconduct constitutes a violent crime, a hate crime, a sexual offense, a civil rights violation, or if the volunteer was under the influence of alcohol or drugs.

Most significantly for the purpose of this report, the volunteer is immune only if the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicles. NCSL examined the VPA's legislative history to determine why

incidents in motor vehicles had been specifically excluded. However, the history contained no specific references to this provision.

The federal law does not affect the right of government agencies or nonprofit organizations to sue volunteers. Additionally, the law does not provide protection from civil actions directed at nonprofit organizations or government agencies.

State and Jurisdictional Statutes

NCSL found laws that were relevant to this project in every state, the Virgin Islands and Guam. The laws fit two main categories: statutes that addresses civil liability for volunteers and statutes that address insurance for volunteers. Most laws are civil liability statutes that address the liability of individual volunteers or the liability of the agency, organization, charity or company that engages a volunteer's services. More than a dozen states also have insurance statutes.

Civil Liability Statutes

All 50 states, the Virgin Islands and Guam have volunteer protection statutes. These laws generally define civil liability and provide protections to individual volunteers and/or agencies, organizations and charities that use volunteers. Most state volunteer protection laws, similar to the federal Volunteer Protection Act, make individual volunteers for authorized entities—typically nonprofit corporations and organizations, government agencies and hospitals—immune from civil liability if they have acted in good faith and without malfeasance. However, some jurisdictions are even more selective about the types of individuals who benefit from volunteer immunity protections. Statutes in eight states—Connecticut, Indiana, Iowa, New Mexico, New York, Rhode Island, Tennessee and Virginia—protect only volunteers for government services. Statutes in four states—Alaska, California, Montana and Vermont—protect only directors, officers and trustees of authorized entities. No state statute provides immunity from civil action for volunteers of for-profit companies.

Jurisdictions split regarding their specific treatment of individual volunteer drivers. Similar to the federal volunteer protection law, 26 jurisdictions expressly exclude acts committed in motor vehicles from volunteer immunity protection. These include Arkansas, Colorado, Delaware, Hawaii, Idaho, Louisiana, Maine, Massachusetts, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, North Dakota, Oklahoma, Pennsylvania, South Dakota, Utah, Washington, West Virginia, Wisconsin, Wyoming, and Guam. Connecticut provides sovereign immunity for individual volunteers involved in traffic incidents, but gives people injured by a motor vehicle operated by a volunteer driver the right of recovery against the state. Texas makes most individual volunteers liable for motor vehicle incidents but provides specific protections for religious charitable organizations that own or lease the motor vehicle.

Only two states, Georgia and Oregon, explicitly protect volunteer drivers from civil liability. Georgia's code protects volunteers who transport seniors. It provides that "any person who provides volunteer transportation for senior citizens shall not be liable for any civil damages for any injury to such senior citizens arising out of or resulting from such transportation if such person was acting in good faith within the scope of his or her official actions and duties and unless the conduct of such person amounts to willful and wanton misconduct."¹³

Oregon limits liability for volunteer drivers and programs that transport seniors and people with disabilities.¹⁴ The statute provides dollar limits on the amount that can be collected for bodily injuries or deaths by individuals receiving transportation services. The liability limits protect the person who provides or sponsors the transportation services, the vehicle owner, and the volunteer who operates the vehicle for the transportation services. The statute applies only if the person driving holds a valid Oregon driver's license, the driver provides strictly volunteer services and receives no substantial benefit or compensation beyond actual expenses, and the transportation service is provided free of cost. Additionally, the law does not apply if the accident or injury was caused intentionally or by the operator's gross negligence or intoxication.

In states with volunteer protection statutes that do not expressly exclude or include volunteer drivers, the civil liability of individual volunteers for traffic incidents is less clear. Statutes in Alabama, Arizona, California, Florida, Iowa, Illinois,

Indiana, Kansas, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio and Rhode Island seem to provide all volunteers immunity from civil liability for actions made in good faith and without malicious intent. In these states, a strong legal argument could be made that the statutes include immunity protections for volunteer drivers.

Laws in Michigan, Montana, Nevada, New York, Tennessee and Virginia seem to provide sovereign immunity protections just for drivers that volunteer for state or governmental agencies. Alaska provides immunity for trustees and other officers of nonprofit organizations and does not specify whether it includes activities in motor vehicles.¹⁵

Volunteer protection statutes in some states also help define the liability of organizations, agencies and companies that engage volunteer services. Arizona's law provides that in any suit against a nonprofit corporation or nonprofit organization based on the act or omission of a volunteer, proof that the act or omission committed was within the scope of the volunteer's duties is enough to establish the liability of the organization.¹⁶

Connecticut gives sovereign immunity to individual volunteers for state agencies. However, the statute grants a right of recovery against the state to any person injured by a motor vehicle operated by the state through the negligence of a state official.¹⁷

Conversely, South Carolina's law explicitly exempts the state from liability from the actions of some volunteers. Its statute provides that the government is not liable for any loss resulting from any acts or omissions on the part of a volunteer for the South Carolina Protection and Advocacy System for the Handicapped who is acting within the scope of their responsibilities if the act or omission was done or made in good faith and does not constitute gross negligence, recklessness, or willful or wanton misconduct.¹⁸

Florida's Volunteer Protection Act grants individual volunteers broad immunity and does not specifically exclude activities in motor vehicles. But, under Florida law, if the individual volunteer is not liable, the nonprofit organization for which the volunteer was performing services when the damage occurred will be liable for them.¹⁹

Wyoming expressly links the liability of nonprofit agencies to the actions of their volunteers. Under Wyoming law, proof of the act or omission of a volunteer is sufficient to bring an action against the nonprofit agency under the doctrine of respondeat superior.²⁰

Insurance or Reimbursement Statutes

In addition to laws that address civil liability, some state statutes address volunteer insurance or reimbursement. These divide into several categories. Seven states—Arizona, California, Florida, Maine, South Carolina, Tennessee and Virginia—either require insurance companies to extend coverage for volunteer driver activities or explicitly allow municipal governments or other organizations that use volunteers to purchase liability insurance. Arizona requires insurance carriers to extend coverage to nonprofit companies and organizations for the activities of volunteer drivers.²¹ California prohibits the issuance of auto insurance policies that expressly or by implication exclude coverage for the use of an automobile for the performance of volunteer services for a nonprofit or charitable organization or a governmental agency.²² Insurance companies in Maine cannot refuse to insure a driver or impose a surcharge on a person solely because that person is a volunteer driver.²³ Government agencies in Florida, South Carolina, Tennessee and Virginia may extend insurance to cover volunteer drivers.

Twelve states link the ability to recover damages in cases involving volunteers to insurance coverage. Five of these states—Kansas, North Carolina, South Dakota, Texas and Vermont—connect liability to insurance coverage. In Kansas and Texas, immunities are available to volunteers or nonprofit organizations only if the organization that engages the volunteer's service is covered by insurance. Both states also limit recovery in the amount of the insurance policy.²⁴ In North Carolina, South Dakota and Vermont, immunities are waived if the nonprofit organization that uses volunteers carries an insurance policy and damages may be recovered to the extent of insurance coverage.

Delaware, Hawaii, Idaho, Louisiana, Maryland, New Hampshire and Washington limit damages to the extent of a volunteer's personal insurance or the insurance of the organization or agency that uses the volunteer. Maryland, for example, limits civil liability to the amount of personal insurance carried by the volunteer with some exceptions.²⁵

Four states—Arkansas, Colorado, Connecticut and Minnesota—expressly require or allow state agencies to reimburse a volunteer's expenses including payments for liability insurance. Arkansas, for example, allows reimbursement for liability insurance if the state agency made provisions for such benefits, established proper safeguards for eligibility and determined that there are sufficient funds available for the agency to defray costs.²⁶ Connecticut allows reimbursement for liability insurance purchased by volunteers through the State Insurance and Risk Management Board to cover volunteers to the same extent as salaried employees.²⁷

Comments and Practices

NCSL's informal interviews of officials from state agencies and nonprofit organizations that provide special transportation services yielded many common comments about volunteer driver liability. Common comments include the following.

1. *Little reliance on volunteer protection statutes.* Many people interviewed were unaware or unsure of the potential statutory protections available for volunteer drivers in their jurisdiction, including those interviewed from states that do not expressly exclude incidents in motor vehicles from volunteer immunity protections. Officials often said they did not have volunteer protection laws or believed that unsettled case law made immunities apparently provided in the statute less certain. Volunteer protection statutes did not seem to factor into decisions about liability. Instead, most state agencies and nonprofit organizations worked to limit liability through background or driver-history checks of potential drivers.
2. *Belief that personal insurance covers liability.* Most programs reported that their volunteers use their own vehicles and were therefore likely liable to the same extent as other drivers. Most programs also require drivers to carry their own personal insurance.
3. *Belief that general organizational policies cover liability.* Many officials also reported that general insurance policies for their organizations would provide additional coverage for volunteers. According to several officials, federally funded volunteer programs nationwide use insurance policies from the CIMA companies to provide excess coverage for volunteer drivers.
4. *Different practices for religious charities.* A few people interviewed reported differences between religious charities and other organizations. In one example, state law provided immunity for transportation services provided by religious charities. In other examples, special insurance coverage was available to religious charities.

Several interesting practices also emerged from interviews with agencies and organizations that provide special transportation services. In Arizona, the Regional Transportation Authority (RTA) and the Pima Council on Aging recently formed a partnership to provide funding to the Neighbors Care program, which provides transportation services to seniors and others in need. The RTA will provide \$250,000 annually for 20 years. Funding will be used to improve existing volunteer-based transportation services and to help purchase motor vehicle or general liability insurance. Organizations in Tennessee and Texas reported internal cost-sharing plans that allow them to help pay for their volunteer drivers' motor vehicle insurance.

NCSL's Web Map

An interactive map housed on NCSL's Transportation web page provides more detail about state volunteer protection laws and initiatives. The map allows users to click on each jurisdiction and get a link to the relevant statute, a statute summary and additional comments about the jurisdiction. Data contained in the map will be updated as additional information becomes available. The map is online at <http://www.ncsl.org/programs/transportation/SVDLLaws.htm>.

Appendix. State Volunteer Protection Laws		
State/Jurisdiction	Statutes	Provision
Alabama	Alabama Code §6-5-336	<p>Provides protections for volunteers of nonprofit corporations, nonprofit organizations, government entities and hospitals.</p> <p>Volunteers are immune from civil liability if the volunteer was acting in good faith in the official functions and duties with the agency or organization.</p> <p>Contains no provision related to volunteer use of motor vehicles.</p>
Alaska	Alaska Stat. §09.65.170	<p>Limits liability of certain officers of nonprofit organizations.</p> <p>Contains no provision related to volunteer drivers.</p>
Arizona	Ariz. Rev. Stat. Ann. §12-981 et seq.	<p>Provides protection to volunteers for a nonprofit corporation, or organization, hospital or governmental agency. The term also includes a volunteer who serves as a director, officer, trustee or direct service volunteer.</p> <p>A volunteer is immune from civil liability for any act or omission resulting in damage or injury if the volunteer was acting in good faith and within the scope of duties; and, the damage or injury was not caused by willful, wanton or grossly negligent misconduct by the volunteer.</p> <p>The statute does not contain a section specifically related to volunteer drivers.</p> <p>Extends liability to organizations that use volunteers for acts or omissions of the volunteer.</p> <p>Liability insurance must extend to the organization or agency that is using the volunteer driver's insurance.</p>
Arkansas	Ark. Stat. Ann. §16-6-101 et seq. (2006); Ark. Stat. Ann §21-13-101 et seq. (2006)	<p>Provides immunity from liability for volunteers unless the volunteer negligently operates a motor vehicle.</p> <p>Damages are limited to the volunteer's liability insurance coverage.</p> <p>Volunteers for the state may be reimbursed for liability insurance if the agency made provisions for such benefits, established proper safeguards for eligibility and determined that there are sufficient funds available.</p> <p>Volunteers for the state are protected by the state's sovereign immunity.</p>
California	Cal. Corporations Code §5239 (West 2006)	<p>Protects directors and volunteer officers of nonprofit organizations from personal liability.</p> <p>Provides that damages caused by a volunteer director or officer of a nonprofit organization are covered by the organization's general liability insurance.</p> <p>Requires that automobile insurance policies cannot be issued if they implied or expressly exclude coverage for the use of an automobile for the performance of services for a nonprofit or charitable organization or a government agency.</p>
Colorado	Colo. Rev. Stat. §13-21-115.5	<p>Provides immunity for volunteers unless the damages arise from the operation of a motor vehicle.</p> <p>Does not provide immunity to organizations for the negligent acts of volunteers.</p>

Appendix. State Volunteer Protection Laws (continued)		
State/Jurisdiction	Statutes	Provision
Connecticut	Conn. Gen. Stat. Ann §§4-61hh et seq; 4-165; 52-556 (West 2006)	<p>Provides sovereign immunity for volunteers for state agencies.</p> <p>Allows state volunteers to be reimbursed for liability insurance purchased through the State Insurance and Risk Management Board.</p> <p>Any person who is injured by a motor vehicle operated by the state through the negligence of a state official shall have the right of recovery for such injuries.</p>
Delaware	Del. Code Ann. tit 1 §8133	<p>Provides protections for volunteers and the organization or agency that engages their services unless the action arises from the operation of a motor vehicle.</p> <p>Damages recovered cannot exceed the amount of applicable insurance coverage.</p>
Florida	Fla. Stat. §§768.1355; 430.204	<p>Provides protections for volunteers unless they acted with malicious intent.</p> <p>If the volunteer is not liable because of the provisions in the statute, the nonprofit organization shall be liable for his or her acts or omissions.</p>
Georgia	Ga. Code Ann. §51-1-42 (2006)	Provides protection to volunteers who transport senior citizens unless any injury or damage was caused by the volunteer's malfeasance.
Hawaii	Hawaii Rev. Stat. §§662D-1 et seq.	<p>Provides immunity for volunteers if the organization carries a minimum amount of general liability insurance.</p> <p>Immunity is provided unless the damages arise from the operation of a motor vehicle or other malfeasance.</p>
Idaho	Idaho Code §6-1605 (2006)	<p>Provides immunity for volunteers unless the damages arise from the operation of a motor vehicle.</p> <p>Damages are limited to the extent of the volunteer's or the nonprofit's amount of insurance coverage.</p>
Illinois	Ill. Rev. Stat. ch 105 108.70 (2006)	<p>Protects directors, officers and volunteers of nonprofit organizations from personal liability unless they acted with malicious intent.</p> <p>The statute does not apply to directors of nonprofit organizations that earn more than \$5,000 per year.</p> <p>Contains no provision related to volunteer drivers.</p>
Indiana	Ind. Code Ann. §§34-30-4-1 (West 2006)	<p>Provides immunity to directors of nonprofit organizations.</p> <p>Provides immunity to volunteers who donate their time to a Community Mental Retardation and Other Developmental Disabilities Center, or other nonprofit organizations, so long as the damages did not arise from the volunteer's malfeasance.</p>
Iowa	Iowa Code §§669.24; 670.2 (2006)	Provides immunity for volunteers for state agencies if the act or omission was not caused by the volunteer's malfeasance.
Kansas	Kan. Stat. Ann. §60-3601 (2006)	<p>Provides protections for volunteers unless they acted with malicious intent.</p> <p>Damages are limited to the extent of the volunteer's or the nonprofit's amount of insurance coverage.</p> <p>Contains no provision related to volunteer drivers.</p>

Appendix. State Volunteer Protection Laws (continued)		
State/Jurisdiction	Statutes	Provision
Kentucky	Ky. Rev. Stat. §411.200 (2006)	Protects directors, officers and volunteers of nonprofit organizations from personal liability unless they acted with malicious intent. Contains no provision related to volunteer drivers.
Louisiana	La. Rev. Stat. §9:2792.3; 9:2792.9 (2006)	Provides immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance.
Maine	Me. Rev. Stat. Ann. tit. 24-A §2902-F; tit. 14 §158-A (2006)	Provides immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. An insurance company cannot refuse to insure a volunteer driver and cannot charge a surcharge or increase the rate of a volunteer driver.
Maryland	Md. Courts and Judicial Proceedings Code Ann. §§5-406 et seq. (2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. Limits civil liability to the amount of personal insurance carried by the volunteer with some exceptions.
Massachusetts	Mass. Gen. Laws Ann. ch. 231, §85k (West 2006)	Provides civil immunity for directors, officers and volunteers of nonprofit organizations unless the damages arise from the operation of a motor vehicle or other malfeasance.
Michigan	Mich. Comp. Laws Ann. §691.1407 (West 2006)	Provides immunity for volunteers for state agencies if the act or omission was not caused by the volunteer's malfeasance. Volunteers are liable for damages if they are the proximate cause. Contains no provision related to volunteer drivers.
Minnesota	Minn. Stat. Ann. §317A.257 (2006)	Protects directors, officers and volunteers of nonprofit organizations from personal liability unless they acted with malicious intent. Contains no provision related to volunteer drivers.
Mississippi	Miss. Code Ann. §95-9-1 (2006)	Provides civil immunity for directors, officers and volunteers of nonprofit organizations unless the damages arise from the operation of a motor vehicle or other malfeasance. Volunteers can be reimbursed for the cost of their insurance coverage.
Missouri	Mo. Rev. Stat. §537.118.1. (2006)	Protects directors, officers and volunteers of nonprofit organizations from personal liability unless they acted with malicious intent. Contains no provision related to volunteer drivers.
Montana	Mont. Code Ann. §27-1-732 (2006)	Limits liability of certain officers of nonprofit organizations. Contains no provision related to volunteer drivers.
Nebraska	Neb. Rev. Stat. §25- 21,188.02 (2006)	Provides civil immunity for directors, officers and volunteers of nonprofit organizations unless the damages arise from the operation of a motor vehicle or other malfeasance.
Nevada	Nev. Rev. Stat. §§616A.130 et seq (2006)	Volunteers for both the state and the government may be considered employees of either the agency or the state at a salary of \$100 per month. Contains no provision related to volunteer drivers.

Appendix. State Volunteer Protection Laws (continued)		
State/Jurisdiction	Statutes	Provision
New Hampshire	N.H. Rev. Stat. Ann. §508:17 (2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. Liability on behalf of a nonprofit organization for damage or injury sustained by a person is limited to \$250,000. Damages sustained by persons are limited to \$1 million.
New Jersey	N.J. Rev. Stat. §§2A:53A-7.1 et seq. (2006)	Provides civil immunity for directors, officers and volunteers of nonprofit organizations unless the damages arise from the operation of a motor vehicle or other malfeasance.
New Mexico	N.M. Stat. Ann. §§41-4-3 et seq. (2006)	Provides immunity for volunteers for state agencies if the act or omission was not caused by the volunteer's malfeasance. Volunteers are provided a state defense unless the insurance company is required to provide a defense.
New York	N.Y. Not-for-Profit Corporation Law §720-a (McKinney 2005); N.Y. Public Officers Law §17 (McKinney 2006)	Limits liability of certain officers of nonprofit organizations. The state will provide for a volunteer's defense in a state sponsored program if the act or omission was committed while the volunteer acted in his or her official capacity.
North Carolina	N.C. Gen. Stat. §§1-539.10 et seq. (2006)	Protects directors, officers and volunteers of nonprofit organizations from personal liability unless they acted with malicious intent. If either the volunteer or the nonprofit organization has liability insurance, they have waived their liability to the extent of their coverage. Contains no provision related to volunteer drivers.
North Dakota	N.D. Cent. Code §10-33-48; §32-03-45	Provides civil immunity for directors, officers and volunteers of nonprofit organizations unless the damages arise from the operation of a motor vehicle or other malfeasance. Contains no provision related to volunteer drivers.
Ohio	Ohio Rev. Code Ann. §2305.38 (2006)	Protects directors, officers and volunteers of nonprofit organizations from personal liability unless they acted with malicious intent. Contains no provision related to volunteer drivers.
Oklahoma	Okla. Stat. Ann. tit. 76 §31; tit. 19 §168 (2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. If the volunteer is considered to have immunity, the nonprofit is still liable for the volunteer's actions.
Oregon	Or. Rev. Stat. §30.475 et seq.	Limits the liability of volunteer drivers who transport senior citizens and disabled persons. The statute provides amounts the organization is liable for in the event that someone the volunteer is transporting is injured or dies as a result of the volunteer driver's actions. The driver must have a valid Oregon driver's license and can be reimbursed only for actual expenses.

Appendix. State Volunteer Protection Laws (continued)		
State/Jurisdiction	Statutes	Provision
Pennsylvania	Pa. Cons. Stat. Ann. tit. 42 §8332.4	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. The volunteer can be found negligent for any acts or omissions.
Rhode Island	R.I. Gen. Laws §9-1-31.1	Provides immunity for volunteers for state agencies if the act or omission was not caused by the volunteer's malfeasance.
South Carolina	S.C. Code Ann. §8-25-10 et seq. (Law. Co-op 2006)	Provides immunity for volunteers for state agencies if the act or omission was not caused by the volunteer's malfeasance.
South Dakota	S.D. Codified Laws Ann. §§47-23-28 et seq. (2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. If the volunteer or nonprofit organization participates in a risk sharing pool or purchases liability insurance they waive their immunity to the extent of their coverage.
Tennessee	Tenn. Code Ann. §29-20-310; §29-20-403 (2006)	Provides immunity for volunteers for state agencies if the act or omission was not caused by the volunteer's malfeasance.
Texas	Texas Charitable Immunity and Liability Code Ann. §84.001 et seq. (2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. Religious charitable organizations that own or lease their own motor vehicles are not liable for damages arising from someone entrusted to provide transportation services.
Utah	Utah Code Ann. §§78-19-1 et seq. (2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. A nonprofit organization is not liable for the actions of its volunteers unless the organization had, or reasonably should have had, knowledge of the volunteer's malfeasance.
Vermont	Vt. Stat. Ann. tit. 29 §1403 (2006)	Limits liability of certain officers of nonprofit organizations. Contains no provision related to volunteer drivers.
Virginia	Va. Code §§2.2-3600 et seq. (2006)	Provides immunity for volunteers for state agencies so long the act or omission was not caused by the volunteer's malfeasance. Limits liability of certain officers of nonprofit organizations. Contains no provision related to volunteer drivers.
Washington	Wash. Rev. Code Ann. §4.24.670	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. Damages are limited to the extent of the volunteer's or the nonprofit's amount of insurance coverage. The statute leaves the non-profit organization or the state the option to be able to sue the volunteer.
West Virginia	W. Va. §§55-7C-1 et seq. (2006)	Limits liability of certain officers of nonprofit organizations and does not cover the negligent use of an automobile. Contains no provision related to volunteer drivers.

Appendix. State Volunteer Protection Laws (continued)		
State/Jurisdiction	Statutes	Provision
Wisconsin	Wis. Stat. Ann. §181.0670 et seq. (West 2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance.
Wyoming	Wyo. Stat. §1-1-125 (2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. Expressly links the liability of non-profit agencies to the actions of their volunteers. Proof of the act or omission of a volunteer is sufficient to bring an action against the nonprofit agency under the doctrine of respondeat superior
Guam	Guam Code Chapter 16 (2006)	Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. Punitive damages can be awarded to a claimant so long as they can prove that by the volunteer's willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed. The volunteer is liable for any noneconomic harm caused.
Virgin Islands	§42 Immunity in emergency and other cases	Provides immunity for volunteers for state agencies if the act or omission was not caused by the volunteer's malfeasance. Contains no provision related to volunteer drivers.
U.S. Federal	42 U.S.C. §§14501 et seq. (2006)	Preempts state laws that are inconsistent with it. Provides civil immunity for volunteers unless the damages arise from the operation of a motor vehicle or other malfeasance. Allows states to establish additional requirements that do not conflict with the federal statute. Punitive damages can be awarded to a claimant so long as they can prove that by the volunteer's willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed. The volunteer is liable for any noneconomic harmed caused.

Notes

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2. Ibid.
3. Linda Bailey, *Aging Americans: Stranded Without Options* (Washington, D.C.: Surface Transportation Policy Project, April 2004), 3, <http://www.transact.org/report.asp?id=232>.
4. U.S. General Accounting Office, *Transportation Disadvantaged Populations: Some Coordination Efforts Among Programs Providing Transportation Services, but Obstacles Persist*, GAO-03-697 (Washington, D.C.: U.S. GAO, June 2003), 6.
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9. Bernadette D. Proctor and Joseph Dalaker, *Poverty in the United State: 2002* (Washington, D.C.: U.S. Census Bureau, 2003), 2.
10. U.S. Federal Highway Administration and U.S. Federal Transit Administration, *2002 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance* (Washington, D.C.: U.S. Federal Highway Administration, 2003), 14-2.
11. U.S. General Accounting Office, *Transportation Disadvantaged Populations*, 8.
12. 42 U.S.C. §§14501 et seq.
13. Ga. Code Ann. §51-1-42 (2006).
14. Or. Rev. Stat. §§30.475 et seq. (2006).
15. Alaska Stat. §09.65.170 (2005).
16. Ariz. Rev. Stat. Ann. §§12-981 et seq. (2006).
17. Conn. Gen. Stat. Ann. §52-556 (West 2006).
18. S.C. Code Ann §8-25-10 et Seq. (Law. Co-op 2006).
19. Fla. Stat. §768.1355 (2006).
20. Wyo. Stat. §1-1-125 (2006).
21. Ariz. Rev. Stat. Ann. §12-982 (2006).
22. Cal. Corporations Code §5239 (West 2006).
23. Me. Rev. Stat. Ann. tit. 24-A §2902-f (2006).
24. Kan. Stat. Ann. §60-3601 (2006); Tex. Charitable Immunity and Liability Code Ann. §84.001 et seq.
25. Md. Courts and Judicial Proceedings Code Ann. §§5-406 et seq. (2006).
26. Ark. Stat. Ann. §§21-13-101 et seq. (2006)
27. Conn. Gen. Stat. Ann. §4-611l (West 2006).



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