



## Ohio Revised Code

### Section 3746.24 Tort actions - immunity.

Effective: September 28, 1994

Legislation: Senate Bill 221 - 120th General Assembly

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(A) As used in this section:

(1) "Harm" means injury, death, or loss to person or property caused by exposure to a hazardous substance or petroleum.

(2) "Public utility" includes, without limitation, a person engaged in the storage and transportation of natural gas.

(3) "Tort action" means a civil action for damages for harm and includes a civil action under section 3746.23 of the Revised Code for recovery of the costs of conducting a voluntary action, but does not include a civil action for damages for a breach of contract or another agreement between persons or for a breach of a warranty that exists pursuant to the Revised Code or common law of this state.

(B) Any of the following, and any officer or employee thereof, is not liable in a tort action resulting from the presence of hazardous substances or petroleum at, or the release of hazardous substances or petroleum from, a property where a voluntary action is being or has been conducted under this chapter and rules adopted under it unless an action or omission of the person, state agency, political subdivision, or public utility, or an officer or employee thereof, constitutes willful or wanton misconduct or intentionally tortious conduct:

(1) A person who is working as a contractor for another in conducting any activity in connection with a voluntary action under this chapter and rules adopted under it;

(2) A state agency or political subdivision that is conducting a voluntary action or maintenance activities on lands, easements, or rights-of-way owned, leased, or otherwise held by the state agency or political subdivision;

(3) A state agency when an officer or employee of the state agency, as defined in section 109.36 of



the Revised Code, provides technical assistance to a person undertaking a voluntary action under this chapter and rules adopted under it, or to a contractor, officer, employee, or agency thereof, in connection with the voluntary action;

(4) A public utility that is doing either of the following:

(a) Performing work in an easement or right-of-way of the public utility across property where a voluntary action is being or has been conducted and where the public utility is constructing or has main or distribution lines above or below the surface of the ground for purposes of maintaining the easement or right-of-way or for construction, repair, or replacement of its lines; of poles, towers, foundations, or other structures supporting or sustaining any such lines; or of appurtenances to those structures;

(b) Performing work on property where a voluntary action is being conducted that is necessary to establish or maintain utility service to the property, including, without limitation, the construction, repair, or replacement of main or distribution lines above or below the surface of the ground; of poles, towers, foundations, or other structures supporting or sustaining any such lines; or of appurtenances to those structures.

(5) The Ohio water development authority created in section 6121.02 of the Revised Code and the director of environmental protection as the providers of assistance under section 6111.036 or Chapter 6123. of the Revised Code to any person undertaking a voluntary action.

(C)(1) This section does not create, and shall not be construed as creating, a new cause of action against or substantive legal right against this state or a person, political subdivision of this state, or public utility, or an officer or employee thereof.

(2) This section does not affect, and shall not be construed as affecting, any immunities from civil liability or defenses established by another section of the Revised Code or available at common law, to which this state or a person, political subdivision, or public utility, or officer or employee thereof, may be entitled under circumstances not covered by this section.

(3) Section 9.86 of the Revised Code does not apply to an officer or employee of the state, as defined



in section 109.36 of the Revised Code, if the officer or employee is performing work in connection with an activity described in division (B)(2) or (3) of this section at the time he allegedly caused the harm, or caused or contributed to the release of hazardous substances or petroleum, for which damages, or the recovery of the costs of conducting a voluntary action, are sought in a tort action. Instead, the immunities conferred by division (B)(2) or (3) of this section, whichever is applicable, apply to that individual.

(4) Divisions (B)(2), (3), and (4) of section 2744.02 of the Revised Code do not apply to a political subdivision of this state with respect to the conduct of an activity described in division (B)(2) or (4) of this section. Instead, the immunities conferred by division (B)(2) or (4) of this section, whichever is applicable, apply to the political subdivision.

(5) Division (A)(6) of section 2744.03 of the Revised Code does not apply to an employee, as defined in section 2744.01 of the Revised Code, if the employee is performing work in connection with an activity described in division (B)(2) or (4) of this section at the time that he allegedly caused the harm, or caused or contributed to the release of hazardous substances or petroleum, for which damages, or the recovery of the costs of conducting the voluntary action, are sought in a tort action. Instead, the immunities conferred by division (B)(2) or (4) of this section, whichever is applicable, apply to that individual.

(D) This section does not affect, and shall not be construed as affecting, any liability of an owner or operator of a property on which a voluntary action is being or has been undertaken. No person shall be deemed to be an owner or operator solely as the result of conducting a voluntary action at the property.