

AND PUBLIC HEALTH PRACTICE AND GIVES WRITTEN APPROVAL FOR THE PROJECT TO BE ADMINISTERED IN THIS STATE, A PHYSICIAN, NURSE, OR OTHER PERSON PARTICIPATING IN THE PROJECT IS NOT LIABLE FOR ANY ADVERSE EFFECT THAT ARISES FROM THE USE OF A DRUG OR VACCINE IN THE PROJECT.

(C) LIMITATIONS.

THIS SECTION DOES NOT EXEMPT:

(1) A PERSON FROM LIABILITY FOR GROSS NEGLIGENCE;

(2) A DRUG MANUFACTURER FROM THE DUTY TO USE ORDINARY CARE IN PREPARING AND HANDLING A DRUG OR VACCINE; OR

(3) A PERSON FROM LIABILITY THAT ARISES OUT OF THE IMPROPER OR ILLEGAL ADMINISTRATION OF A DRUG OR VACCINE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 43, § 132B(a), (b)(1) and (3), and (c).

In subsection (b) of this section, the former reference to "direct State action or in cooperation with an official or voluntary medical or health agency" is deleted as unnecessary.

In subsection (c)(1) of this section, the term "negligence" is substituted for the former term "neglect", to conform to legal terminology.

Former Article 43, § 132B(b)(2), which limited liability if the individual immunized was required by law to be immunized, is deleted as unnecessary in light of subsection (a)(1) of this section, which applies to immunizations whether or not the immunization is required by law.

Defined terms: "Person" § 1-101
"Physician" § 1-101 "Secretary" § 1-101

18-402. LIABILITIES AND WARRANTIES FOR BLOOD.

A PERSON WHO OBTAINS, PROCESSES, STORES, DISTRIBUTES, OR USES WHOLE BLOOD OR ANY SUBSTANCE DERIVED FROM BLOOD FOR INJECTION OR TRANSFUSION INTO AN INDIVIDUAL FOR ANY PURPOSE MAY NOT BE HELD LIABLE FOR THE VIRUS OF SERUM HEPATITIS UNDER:

(1) STRICT LIABILITY IN TORT;

(2) THE IMPLIED WARRANTY OF MERCHANTABILITY; OR