

Act No. 150  
Public Acts of 1996  
Approved by the Governor  
March 24, 1996  
Filed with the Secretary of State  
March 25, 1996

**STATE OF MICHIGAN**  
**88TH LEGISLATURE**  
**REGULAR SESSION OF 1996**

**Introduced by Reps. McNutt, DeLange, Bobier, Hammerstrom, McBryde, Horton, Goschka, Randall, Alley, Middaugh, Voorhees, Wetters, Middleton, Dobb, London and Jaye**

# **ENROLLED HOUSE BILL No. 4744**

AN ACT to amend section 2 of Act No. 170 of the Public Acts of 1964, entitled as amended "An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts," as amended by Act No. 278 of the Public Acts of 1990, being section 691.1402 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 2 of Act No. 170 of the Public Acts of 1964, as amended by Act No. 278 of the Public Acts of 1990, being section 691.1402 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 2. (1) Each governmental agency having jurisdiction over a highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel. A person sustaining bodily injury or damage to his or her property by reason of failure of a governmental agency to keep a highway under its jurisdiction in reasonable repair, and in condition reasonably safe and fit for travel, may recover the damages suffered by him or her from the governmental agency. The liability, procedure and remedy as to county roads under the jurisdiction of a county road commission shall be as provided in section 21 of chapter IV of Act No. 283 of the Public Acts of 1909, as amended, being section 224.21 of the Michigan Compiled Laws. The duty of the state and the county road commissions to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel. A judgment against the state based on a claim arising under this section from acts or omissions of the state transportation department is payable only from restricted funds appropriated to the state transportation department or funds provided by its insurer.

(2) If the state transportation department contracts with another governmental agency to perform work on a state trunkline highway, an action brought under this section for tort liability arising out of the performance of that work shall be brought only against the state transportation department under the same circumstances and to the same extent as if the work had been performed by employees of the state transportation department. The state transportation department has the same defenses to the action as it would have had if the work had been performed by its own employees. If an action described in this subsection could have been maintained against the state transportation

department, it shall not be maintained against the governmental agency that performed the work for the state transportation department. The governmental agency also has the same defenses that could have been asserted by the state transportation department had the action been brought against the state transportation department.

(3) The contractual undertaking of a governmental agency to maintain a state trunkline highway confers contractual rights only on the state transportation department and does not confer third party beneficiary or other contractual rights in any other person to recover damages to person or property from that governmental agency. This subsection does not relieve the state transportation department of liability it may have, under this section, regarding that highway.

(4) The duty imposed by this section on a governmental agency is limited by the provisions of section 81131 of part 811 (off-road recreation vehicles) and section 82124 of part 821 (snowmobiles) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.81131 and 324.82124 of the Michigan Compiled Laws.

This act is ordered to take immediate effect.

-----  
Clerk of the House of Representatives.

-----  
Secretary of the Senate.

Approved -----

-----  
Governor.