



HOUSE BILL No. 4744

April 25, 1995, Introduced by Reps. McNutt, DeLange, Bobier, Hammerstrom, McBryde, Horton, Goschka, Randall, Alley, Middaugh, Voorhees, Wetters, Middleton, Dobb, London and Jaye and referred to the Committee on Judiciary and Civil Rights.

A bill 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:

1 Section 1. Section 2 of Act No. 170 of the Public Acts of
2 1964, as amended by Act No. 278 of the Public Acts of 1990, being

1 section 691.1402 of the Michigan Compiled Laws, is amended to
2 read as follows:

3 Sec. 2. (1) Each governmental agency having jurisdiction
4 over ~~any~~ A highway shall maintain the highway in reasonable
5 repair so that it is reasonably safe and convenient for public
6 travel. ~~Any~~ A person sustaining bodily injury or damage to his
7 or her property by reason of failure of ~~any~~ A governmental
8 agency to keep ~~any~~ A highway under its jurisdiction in reason-
9 able repair, and in condition reasonably safe and fit for travel,
10 may recover the damages suffered by him or her from the govern-
11 mental agency. The liability, procedure and remedy as to county
12 roads under the jurisdiction of a county road commission shall be
13 as provided in section 21 of chapter IV of Act No. 283 of the
14 Public Acts of 1909, as amended, being section 224.21 of the
15 Michigan Compiled Laws. The duty of the state and the county
16 road commissions to repair and maintain highways, and the liabil-
17 ity ~~therefor, shall extend~~ FOR THAT DUTY, EXTENDS only to the
18 improved portion of the highway designed for vehicular travel and
19 ~~shall~~ DOES not include sidewalks, crosswalks, or any other
20 installation outside of the improved portion of the highway
21 designed for vehicular travel. ~~No action shall be brought~~
22 ~~against the state under this section except for injury or loss~~
23 ~~suffered on or after July 1, 1965.~~ ~~Any~~ A judgment against the
24 state based on a claim arising under this section from acts or
25 omissions of the state transportation department ~~shall be~~ IS
26 payable only from restricted funds appropriated to the state
27 transportation department or funds provided by its insurer.

1 (2) If the state transportation department contracts with
2 another governmental agency to perform work on A state trunkline
3 ~~highways~~ HIGHWAY, an action brought under this section for tort
4 liability arising out of the performance of that work shall be
5 brought only against the state transportation department under
6 the same circumstances and to the same extent as if the work had
7 been performed by employees of the state transportation
8 department. The state transportation department ~~shall have~~ HAS
9 the same defenses to the ~~suit~~ ACTION as it would have had if
10 the work had been performed by its own employees. If an action
11 described in this subsection could have been maintained against
12 the state transportation department, it ~~may~~ SHALL not be main-
13 tained against the governmental agency that performed the work
14 for the state transportation department. The governmental agency
15 also ~~shall have~~ HAS the same defenses ~~which~~ THAT could have
16 been asserted by the state transportation department had the
17 action been brought against the state transportation department.

18 (3) The contractual undertaking of a governmental agency to
19 maintain a state trunkline highway confers contractual rights
20 only on the state transportation department and does not confer
21 third party beneficiary or other contractual rights in any other
22 person to recover damages to person or property from that govern-
23 mental agency. This subsection does not relieve the state trans-
24 portation department of ~~any~~ liability it may have, under this
25 section, regarding that highway.

26 (4) THE DUTY IMPOSED BY THIS SECTION ON A GOVERNMENTAL
27 AGENCY IS LIMITED BY THE PROVISIONS OF SECTION 14 OF THE MICHIGAN

1 SNOWMOBILE ACT, ACT NO. 74 OF THE PUBLIC ACTS OF 1968, BEING
2 SECTION 257.1514 OF THE MICHIGAN COMPILED LAWS, AND SECTION 18 OF
3 ACT NO. 319 OF THE PUBLIC ACTS OF 1975, BEING SECTION 257.1618 OF
4 THE MICHIGAN COMPILED LAWS.