



SENATE BILL No. 1224

September 13, 1994, Introduced by Senator VAN REGENMORTER
and referred to the Committee on Judiciary

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 A GOVERNMENTAL AGENCY'S DUTY TO MAINTAIN A HIGH-
12 WAY IN REASONABLE REPAIR DOES NOT INCLUDE ANY OF THE FOLLOWING

13 (A) A DUTY TO REDESIGN OR RECONSTRUCT AN EXISTING HIGHWAY TO
14 COMPLY WITH SUBSEQUENT CHANGES IN ENGINEERING, CONSTRUCTION, OR
15 SAFETY STANDARDS

16 (B) A DUTY TO MAINTAIN OR REMOVE ACCUMULATIONS OF ICE AND
17 SNOW

18 (2) The liability, procedure, and remedy as to county roads
19 under the jurisdiction of a county road commission ~~shall be~~ IS
20 as provided in section 21 of chapter IV of Act No 283 of the
21 Public Acts of 1909, as amended, being section 224 21 of the
22 Michigan Compiled Laws

23 (3) The duty of the state and the county road commissions to
24 repair and maintain highways, and the liability therefor, ~~shall~~
25 ~~extend~~ EXTENDS only to the improved portion of the highway
26 designed for vehicular travel and ~~shall~~ DOES not include
27 sidewalks, crosswalks, or any other installation outside of the

1 improved portion of the highway designed for vehicular travel

2 ~~No~~

3 (4) AN action shall NOT be brought against the state under
 4 this section except for injury or loss suffered on or after July
 5 1, 1965 ~~Any~~ A judgment against the state based on a claim
 6 arising under this section from acts or omissions of the state
 7 transportation department ~~shall be~~ IS payable only from
 8 restricted funds appropriated to the state transportation depart-
 9 ment or funds provided by its insurer

10 (5) ~~(2)~~ If the state transportation department contracts
 11 with another governmental agency to perform work on state trunk-
 12 line highways, an action brought under this section for tort
 13 liability arising out of the performance of that work shall be
 14 brought only against the state transportation department under
 15 the same circumstances and to the same extent as if the work had
 16 been performed by employees of the state transportation
 17 department The state transportation department ~~shall have~~ HAS
 18 the same defenses to the ~~suit~~ ACTION as it would have had if
 19 the work had been performed by its own employees If an action
 20 described in this subsection could ~~have been maintained~~ BE
 21 BROUGHT against the state transportation department, it may not
 22 be ~~maintained~~ BROUGHT against the governmental agency that per-
 23 formed the work for the state transportation department The
 24 governmental agency also ~~shall be~~ HAS the same defenses ~~which~~
 25 THAT could have been asserted by the state transportation depart-
 26 ment had the action been brought against the state transportation
 27 department

1 (6) ~~—(3)—~~ The contractual undertaking of a governmental
2 agency to maintain a state trunkline highway confers contractual
3 rights only on the state transportation department and does not
4 confer third party beneficiary or other contractual rights in any
5 other person to recover damages to person or property from that
6 governmental agency This subsection does not relieve the state
7 transportation department of ~~any~~ liability it may have, under
8 this section, regarding that highway