

# HOUSE BILL No. 5505

January 27, 1998, Introduced by Reps. Crissman, Law, Birkholz, Voorhees, Sikkema, Dobb, Bodem, Horton, Cassis, Brackenridge, Jelinek, Hammerstrom, Gernaat, Kaza, Goschka, Mans and Quarles and referred to the Committee on Judiciary.

A bill to amend 1964 PA 170, entitled

"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,"

by amending section 2 (MCL 691.1402), as amended by 1996 PA 150.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. (1) Each governmental agency having jurisdiction  
2 over a highway shall maintain the highway in reasonable repair so  
3 that it is reasonably safe and convenient for public travel. A  
4 person ~~sustaining~~ WHO SUSTAINS bodily injury or damage to his

1 or her property by reason of failure of a governmental agency to  
2 keep a highway under its jurisdiction in reasonable repair —,  
3 and in A condition reasonably safe and fit for travel —, may  
4 recover the damages suffered by him or her from the governmental  
5 agency. The liability, procedure and remedy as to county roads  
6 under the jurisdiction of a county road commission shall be as  
7 provided in section 21 of chapter IV of ~~Act No. 283 of the~~  
8 ~~Public Acts of 1909, as amended, being section 224.21 of the~~  
9 ~~Michigan Compiled Laws~~ 1909 PA 283, MCL 224.21. The duty of the  
10 state and the county road commissions to repair and maintain  
11 highways, and the liability for that duty, extends only to the  
12 improved portion of the highway designed for vehicular travel and  
13 does not include sidewalks, crosswalks, or any other installation  
14 outside of the improved portion of the highway designed for  
15 vehicular travel. A TOWNSHIP HAS NO DUTY TO REPAIR OR MAINTAIN,  
16 AND IS NOT LIABLE FOR INJURIES ARISING FROM, ANY PORTION OF A  
17 COUNTY HIGHWAY OUTSIDE OF THE IMPROVED PORTION OF THE HIGHWAY  
18 DESIGNED FOR VEHICULAR TRAVEL, INCLUDING BUT NOT LIMITED TO THE  
19 IMPROVED AND UNIMPROVED PORTIONS OF THE HIGHWAY, AND SIDEWALKS,  
20 CROSSWALKS, AND OTHER INSTALLATIONS, UNLESS THE TOWNSHIP ASSUMES  
21 JURISDICTION OVER THAT PORTION OF THE HIGHWAY OR CONTRACTS WITH  
22 THE COUNTY TO MAINTAIN THAT PORTION OF THE HIGHWAY. A judgment  
23 against the state based on a claim arising under this section  
24 from acts or omissions of the state transportation department is  
25 payable only from restricted funds appropriated to the state  
26 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 highway, an action brought under this section for tort liability  
4 arising out of the performance of that work shall be brought only  
5 against the state transportation department under the same cir-  
6 cumstances and to the same extent as if the work had been per-  
7 formed by employees of the state transportation department. The  
8 state transportation department has the same defenses to the  
9 action as it would have had if the work had been performed by its  
10 own employees. If an action described in this subsection could  
11 have been maintained against the state transportation department,  
12 it shall not be maintained against the governmental agency that  
13 performed the work for the state transportation department. The  
14 governmental agency also has the same defenses that could have  
15 been asserted by the state transportation department had the  
16 action been brought against the state transportation department.

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

25       (4) The duty imposed by this section on a governmental  
26 agency is limited by the provisions of ~~section~~ SECTIONS 81131  
27 ~~of part 811 (off-road recreation vehicles) and section~~ AND

1 ~~82124 of part 821 (snowmobiles)~~ of the natural resources and  
2 environmental protection act, ~~Act No. 451 of the Public Acts of~~  
3 ~~1994, being sections 324.81131 and 324.82124 of the Michigan~~  
4 ~~Compiled Laws~~ 1994 PA 451, MCL 324.81131 AND 324.82124.