

HOUSE BILL No. 6042

September 15, 1998, Introduced by Rep. Profit 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 3 (MCL 691.1403).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) ~~No~~ A governmental agency is NOT liable for
2 ~~injuries or damages~~ INJURY OR DAMAGE caused by A defective
3 ~~highways~~ HIGHWAY unless the governmental agency knew, or in the
4 exercise of reasonable diligence should have known, of the

1 existence of the defect and had a reasonable time to repair the
2 defect before the injury took place. Knowledge of the defect and
3 time to repair the ~~same shall be~~ DEFECT IS conclusively pre-
4 sumed when the defect existed so as to be readily apparent to an
5 ordinarily observant person for a period of 30 days or longer
6 before the injury took place.

7 (2) IN AN ACTION FOR DAMAGES CAUSED BY A DEFECTIVE HIGHWAY,
8 A GOVERNMENTAL AGENCY IS NOT LIABLE FOR INJURY, DEATH, OR PROP-
9 ERTY DAMAGE IF THE DEFECT THAT ALLEGEDLY CAUSED THE INJURY,
10 DEATH, OR PROPERTY DAMAGE WAS AN OBSTRUCTION OR DEPRESSION THAT
11 WAS HIGHER OR LOWER THAN THE ABUTTING SURFACE BY 2 INCHES OR
12 LESS. IN AN ACTION FOR DAMAGES CAUSED BY A DEFECTIVE HIGHWAY, IT
13 SHALL NOT BE ARGUED, AND THE TRIER OF FACT SHALL NOT CONSIDER THE
14 FACT, THAT A HIGHWAY DEFECT WAS AN OBSTRUCTION OR DEPRESSION OF
15 MORE THAN 2 INCHES AS BEING DETERMINATIVE OF THE ISSUE AS TO
16 WHETHER THE HIGHWAY WAS IN REASONABLE REPAIR SO THAT IT WAS REA-
17 SONABLY SAFE AND CONVENIENT FOR PUBLIC TRAVEL.