

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act Concerning Tort Claims and Governmental Entities**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 14 MRSA §8104-A, sub-§1**, as amended by PL 2003, c. 414, Pt. B, §27 and affected by c. 614, §9, is further amended to read:

**1. Ownership; maintenance or use of vehicles, machinery and equipment.** A governmental entity is liable for its negligent acts or omissions in its ownership, maintenance or use of any:

- A. Motor vehicle, as defined in Title 29-A, section 101, subsection 42;
- B. Special mobile equipment, as defined in Title 29-A, section 101, subsection 70;
- C. Trailers, as defined in Title 29-A, section 101, subsection 86;
- D. Aircraft, as defined in Title 6, section 3, subsection 5;
- E. Watercraft, as defined in Title 12, section 1872, subsection 14;
- F. Snowmobiles, as defined in Title 12, section 13001, subsection 25; and
- G. Other machinery or equipment, whether mobile or stationary.

The provisions of this section do not apply to the sales of motor vehicles and equipment at auction by a governmental entity.

For purposes of this subsection, "use" means employed by the governmental entity for its purposes or in connection with its activities. A governmental entity is liable for its negligent acts or omissions in connection with such use regardless of whether its employee is operating the vehicle, machinery or equipment at the time of the occurrence causing property damage or bodily injury, but a governmental entity is not liable for the negligence of any nongovernmental person or entity in connection with such use. A governmental entity may be jointly and severally liable with a nongovernmental person or entity only if the negligent acts or omissions of the governmental entity were a cause of the property damage or bodily injury.

### **SUMMARY**

This bill amends the Maine Tort Claims Act to clarify the liability of a governmental entity for its negligent acts and omissions in the use of equipment, vehicles and machinery. "Use" is defined as being employed by the governmental entity for its purposes or in connection with its activities.

The bill imposes liability for the governmental entity's negligent acts or omissions regardless of whether an employee of the governmental entity is operating the vehicle, machinery or equipment at the time of the occurrence causing property damage or bodily injury. The governmental entity is not, however, liable for the negligence of any nongovernmental person or entity in the connection with the use of the vehicle, machinery or equipment.

The bill provides that a governmental entity may be jointly and severally liable with a nongovernmental person or entity, but only if the negligent acts or omissions of the governmental entity were a cause of the property damage or bodily injury.