



125th MAINE LEGISLATURE

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Legislative Document

No. 1256

S.P. 377

In Senate, March 22, 2011

An Act Concerning Tort Claims and Governmental Entities

Reference to the Committee on Judiciary suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator BARTLETT of Cumberland.

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

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

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

7 A. Motor vehicle, as defined in Title 29-A, section 101, subsection 42;

8 B. Special mobile equipment, as defined in Title 29-A, section 101, subsection 70;

9 C. Trailers, as defined in Title 29-A, section 101, subsection 86;

10 D. Aircraft, as defined in Title 6, section 3, subsection 5;

11 E. Watercraft, as defined in Title 12, section 1872, subsection 14;

12 F. Snowmobiles, as defined in Title 12, section 13001, subsection 25; and

13 G. Other machinery or equipment, whether mobile or stationary.

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

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

25 **SUMMARY**

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

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

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