

MAINE STATE LEGISLATURE

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D. O. E.

L.D. 228

STATE OF MAINE
SENATE
109TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. S-38)

COMMITTEE AMENDMENT "A " to S. P. 119, L.D. 228, Bill,
"AN ACT to Remove the Sunset Provision on the Tort Claims Act."

Amend the Bill by striking out all of the title and inserting
in its place the following:

'AN ACT to Remove Overlapping Causes of Action, to Limit Municipal
Liabilities for Highway Defects and to Remove
the Sunset Provision on the Tort Claims Act.'

Further amend the Bill by striking out everything after
the enacting clause and inserting in its place the following:

'Sec. 1. 14 MRSA §8104, sub-§5 is enacted to read:

5. Wrongful death action. Actions for the death of a person
brought by the personal representatives of the deceased person
shall be brought in the same manner that is provided for similar
actions in Title 18, sections 2551 to 2553, and amounts recovered
shall be disposed of as required in Title 18, section 2552;
provided that the limitations of section 3105 shall apply.

Sec. 2. 18 MRSA §2552, as last amended by PL 1977, c. 564,
§35, is further amended by inserting at the end the following
new paragraph:

Any such action brought against a governmental entity under
Title 14, sections 8101 to 8118, shall be limited as provided
in those sections.

Sec. 3. 23 MRSA §3655, next to last sentence, as enacted
by PL 1977, c. 591, §5, is amended to read:

In any action against a town for damages for loss of life permitted

under this section, the claim for and award of damages, including costs, against a town and its employees shall be ~~limited and~~ disposed of as provided under Title 18, section 2552, but shall not exceed \$25,000 for each claim and \$300,000 for any and all claims arising out of a single occurrence. ~~No damages for the loss of comfort, society and companionship of the deceased shall be allowed in an action under this section.~~

Sec. 4. 39 MRSA §4, 5th sentence, as amended by PL 1973, c. 746, §4, is further amended to read:

Such employers shall be exempt from civil actions because of such injuries either at common law or under section 141 to 148, under Title 14, sections 8101 to 8118 or under Title 13, sections 2551 to 2553.

Sec. 5. PL 1977, c. 2, §5, first ¶, 2nd sentence, as amended by PL 1977, c. 591, §6, is repealed as follows:

~~This Act shall remain effective until November 17, 1979.~~

Statement of Fact

This amendment makes clear that an employee does not have several causes of action against a governmental employer if he is injured or dies. It provides that any wrongful death action is limited by the Maine Tort Claims Act. It also provides that a civil action may not be instituted against a governmental employee that is covered under the workers' compensation law. It also establishes a limit for each claim under the "pothole" law based on a death to \$25,000.

Reported by the Committee on Judiciary.

Reproduced and distributed pursuant to Senate Rule 11-A.

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