

MAINE STATE LEGISLATURE

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JOSEPH E. BRENNAN
ATTORNEY GENERAL



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DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

October 12, 1978

Representative James K. McMahon
Box 125
Kennebunk, Maine 04043

Dear Jim:

This responds to your letter of October 5, 1978. By that letter you make inquiry regarding the application of the Maine Tort Claims Act, 14 M.R.S.A. § 8101 to certain fact situations regarding counties and deputy sheriffs. It is difficult to determine liability in any particular fact situation. Therefore, I do not think it would be possible for this office to give a specific response to your letter.

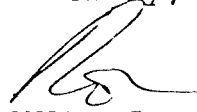
However, in evaluating general risks, it may be helpful to keep the following principles in mind:

1. Liability under the Maine Tort Claims Act is limited to the exceptions to immunity specified in 14 M.R.S.A. § 8104.
2. Governmental responsibility would appear to extend to liability created by any motor vehicle owned, maintained or used for official business, 14 M.R.S.A. § 8104-1-A.
3. If there is an incident involving a private motor vehicle used by a government employee on official business, it is likely that both the governmental unit and the employee would be jointly responsible for any liability created with the extent of their responsibility determined by such factors as the provisions of insurance policies covering the individual and the governmental unit, the particular facts of the case, any collective bargaining or other agreements between the governmental entity and its employee and other factors which would affect the relative relationships of the governmental entity and the employee in determining responsibility for an act creating liability. It should also be noted that the local governments' exposure would be limited to \$300,000. 14 M.R.S.A. § 8105-1.

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I hope this information is helpful.

Sincerely,

A handwritten signature in dark ink, appearing to be 'DGA', written over the word 'Sincerely,'.

DONALD G. ALEXANDER
Deputy Attorney General

DGA:mfe