

MAINE STATE LEGISLATURE

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(New Draft of H.P. 209, L.D. 261)

(New Title)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1346

H.P. 1000

House of Representatives, April 24, 1987

Reported by Representative PARADIS from the Committee on
Judiciary and printed under Joint Rule 2.

EDWIN H. PERT, Clerk
Original bill sponsored by Representative HOGLUND of
Portland. Cosponsored by Senator BRANNIGAN of Cumberland,
Representatives ALLEN of Washington and RAND of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD

NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Amend the Maine Tort Claims Act
2 Relating to Personal Liability of
3 Employees of a Governmental Entity.
4

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

7 14 MRSA §8103, sub-§3, as amended by PL 1985, c.
8 599, §2, is further amended to read:

9 3. Personal liability; employee of a governmen-
10 tal entity. Except as otherwise expressly provided by
11 section 8111 or by any other law, statute, and not-
12 withstanding the common law, the personal liability
13 for the negligent acts or omissions of an employee of
14 a governmental entity acting within the course and

1 scope of his employment shall be personally--liable
2 ~~for--his-negligent-acts-or-emissions-causing-property~~
3 ~~damage,-bodily-injury-or-death-in-instances-in-which~~
4 ~~the--governmental-entity-is-immune-under-this-section~~
5 only subject to a limit of \$10,000 for any and all
6 such claims arising out of a single occurrence and
7 the employee shall not be liable for the amount in
8 excess of that limit on any such claim claims.

9

STATEMENT OF FACT

10 This new draft makes it clear that the Maine Re-
11 vised Statutes, Title 14, section 8103, subsection 3,
12 does not establish an independent statutory basis for
13 liability. The new draft also limits the liability
14 for negligence of employees of governmental entities
15 acting within the course and scope of their employ-
16 ment to \$10,000. Current law applies the limit only
17 in instances in which the governmental entity is im-
18 mune. This new draft extends the limit to instances
19 in which the governmental entity is liable. By de-
20 leting the specific reference to "property damage,
21 bodily injury or death" the new draft makes it clear
22 that the \$10,000 limit applies to all claims based on
23 negligence, including claims based on negligent in-
24 fliction of emotional distress. In Rowe v. Bennett,
25 514 A. 2d 802 (Me. 1986), the Law Court held that in
26 certain limited situations an individual may be lia-
27 ble for negligently causing emotional or mental dis-
28 tress in the absence of physical impact. This new
29 draft extends the current ceiling on personal liabil-
30 ity for property damage, bodily injury or death, to
31 all claims based on negligence, including negligent
32 infliction of emotional or mental distress, against
33 employees of governmental entities acting within the
34 course and scope of their employment.

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