

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1461

S.P. 557

In Senate, April 11, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GAUVREAU of Androscoggin  
Cosponsored by Representative ANTHONY of South Portland.

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STATE OF MAINE

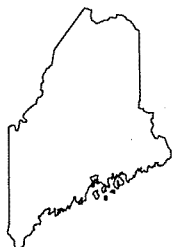
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act Relating to the Notice of Claim Provisions of the Maine Tort  
Claims Act.

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

4 Sec. 1. 14 MRSA §8107, sub-§1-A is enacted to read:

6 1-A. Good cause. Good cause for failure to file a notice  
8 within the 180-day limit provided by this section includes, but  
10 is not limited to:

12 A. Failure of a governmental entity subject to subsection  
14 2-A to comply with its duty under that subsection; and

16 B. Reasonable reliance by a claimant on representations of  
18 governmental officials or their 3rd-party representatives,  
20 including insurance company officials, that a claim has been  
22 preserved.

24 Sec. 2. 14 MRSA §8107, sub-§2-A is enacted to read:

26 2-A. Duty of notification; governmental officials and their  
28 representatives. Any governmental official or 3rd-party  
30 representative of a governmental entity who is contacted with  
32 respect to a potential claim under this chapter by a potential  
34 claimant, or the claimant's representative as specified in  
36 subsection 2, shall provide written notification to the potential  
38 claimant or the claimant's representative of the requirements of  
40 the Maine Tort Claims Act. Subject only to the limitations of  
42 section 8110, this contact tolls the running of the 180-day  
44 notice period until the potential claimant receives the required  
46 notification. A governmental entity that fails to fulfill its  
48 duties under this subsection may not assert noncompliance with  
this section as a defense to actions otherwise allowable under  
this chapter.

### STATEMENT OF FACT

Recent court cases have construed the notice provisions of the Maine Tort Claims Act very strictly against claimants, even when the governmental officials subject to suit or their insurance companies were arguably partly responsible for the claimant's failure to comply with the requirements of the Maine Revised Statutes, Title 14, section 8107. This bill proposes to contravene those decisions by giving governmental officials and the insurance companies representing them a countervailing duty to notify potential claimants, who contact them regarding injuries, of the requirements of the Maine Tort Claims Act. If they fail to do so, they will be precluded from using the 180-day notice limit to stop the actions against them.