

MAINE STATE LEGISLATURE

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L.D. 2157

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DATE: *March 17, 1998*

(Filing No. S- 529)

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION**

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 800, L.D. 2157, "Resolve, Compensating the Estate of Barbara Maxfield for Claims against the State"

Amend the amendment by inserting after the title the following:

'Amend the resolve by striking out the title and substituting the following:

'Resolve, to Allow the Estate of Barbara Maxfield to Sue the State'

Further amend the amendment by striking out all of the first 2 indented paragraphs after the title and inserting in their place the following:

'Further amend the resolve by striking everything after the title and before the summary and inserting in its place the following:

'Sec. 1. Authorization to sue the State. Resolved: That, notwithstanding any law to the contrary, the estate of Barbara Maxfield or its legal representative, on behalf of Allan Maxfield, sole beneficiary, who claims to have suffered damages as a result of the State's failure to intercept a drunken driver who caused the death of Barbara Maxfield at the Maine Turnpike Exit 6-A tollbooth, is authorized to bring a civil action against the State.

SENATE AMENDMENT

2 This action may be brought in the Cumberland County Superior
3 Court within one year from the date this resolve is approved.
4 Liability and damages, including punitive damages, must be
5 determined according to state law as in litigation between
6 individuals. The action may be heard by a Justice of the
7 Superior Court or by a jury. The Maine Rules of Civil Procedure
8 govern the conduct of the action. The Attorney General shall
9 appear, answer and defend the action.

10 The Treasurer of State shall pay any judgment, including
11 costs and interest, on final process issued by the Superior Court
12 or, if applicable, the Supreme Judicial Court. Recovery may not
13 exceed \$300,000 including costs and interest.'

14 FISCAL NOTE

15 **1998-99**

16 APPROPRIATIONS/ALLOCATIONS

17 General Fund (\$275,000)

18 This amendment removes the General Fund appropriation of
19 \$275,000 in fiscal year 1998-99 and allows the State to be sued
20 up to a maximum amount of \$300,000, including costs and
21 interest. If the plaintiff is successful, a General Fund
22 appropriation for the recovery will be necessary. In addition to
23 the plaintiff's award and not subject to the limit, an additional
24 General Fund appropriation may be required by the Department of
25 the Attorney General to defend the claim utilizing outside
26 counsel. The amount and timing of the appropriations will depend
27 on when the suit is filed and its outcome.

28 The Judicial Department can absorb the additional workload
29 and administrative costs associated with this individual case
30 within its existing resources. An additional filing fee will
31 increase General Fund revenue by a minor amount.

32 SUMMARY

33 This amendment allows the estate of Barbara Maxfield to sue
34 the State on behalf of Allan Maxfield for damages due to alleged
35 negligence on the part of the State for failure to intercept a

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 800,
L.D. 2157

drunken driver who killed Barbara Maxfield at the Maine Turnpike
Exit 6-A tollbooth.

SPONSORED BY: Mary Small
(Senator SMALL)

COUNTY: Sagadahoc