

# MAINE STATE LEGISLATURE

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RDS

L.D. 936

DATE: 6/7/05

(Filing No. H-657)

JUDICIARY

Majority

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
122ND LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 655, L.D. 936, Bill, "An Act To Amend the Maine Tort Claims Act"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 14 MRSA §8104-B, sub-§3, as enacted by PL 1987, c. 740, §4, is amended to read:

3. Performing discretionary function. Performing or failing to perform a discretionary function or duty, whether or not the discretion is abused and whether or not any statute, charter, ordinance, order, resolution or policy under which the discretionary function or duty is performed is valid or invalid, except that if the discretionary function involves the operation of a motor vehicle, as defined in Title 29-A, section 101, subsection 42, this section does not provide immunity for negligent operation of the motor vehicle resulting in a collision;

Sec. 2. 14 MRSA §8111, sub-§1, ¶C, as repealed and replaced by PL 1987, c. 740, §8, is amended to read:

C. Performing or failing to perform any discretionary function or duty, whether or not the discretion is abused, and whether or not any statute, charter, ordinance, order, resolution, rule or resolve under which the discretionary

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 655, L.D. 936

function or duty is performed is valid, except that if the discretionary function involves the operation of a motor vehicle, as defined in Title 29-A, section 101, subsection 42, this section does not provide immunity for negligent operation of the motor vehicle resulting in a collision;'

**SUMMARY**

This amendment is the majority report of the Joint Standing Committee on Judiciary and replaces the bill.

This amendment revises the language amending the law that provides discretionary immunity for government entities and government employees to provide an exception from governmental immunity when the discretionary function involves the operation of a motor vehicle. This amendment provides that there is no immunity for negligent operation of a motor vehicle that results in a collision.

**FISCAL NOTE REQUIRED**  
(See attached)



Revised: 06/03/05 *MRC*

# 122nd MAINE LEGISLATURE

LD 936

LR 1879(02)

## An Act to Amend the Maine Tort Claims Act

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

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### Fiscal Note

Potential future biennium cost increase - All Funds

Potential current biennium cost increase - Other Special Revenue Funds

Minor cost increase - General Fund

#### Correctional and Judicial Impact Statements:

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department.

#### Fiscal Detail and Notes

Eliminating discretionary function immunity for vehicle accidents could result in additional costs estimated to be as high as \$200,000 annually to the Risk Management Division of the Department of Administrative and Financial Services. As claims occur, the Risk Management Division will review rates charged to state agencies to determine if they need to be adjusted for the effects of this bill. Should future rate increases be needed, state agencies will require additional General Fund, Highway Fund and Other Special Revenue Funds resources to pay the premiums.