

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 936

H.P. 655

House of Representatives, February 22, 2005

An Act To Amend the Maine Tort Claims Act

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MILLS of Farmington.
Cosponsored by Representatives: GERZOFSKY of Brunswick, PELLETIER-SIMPSON of
Auburn, Senator: MILLS of Somerset.

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

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

6 **3. Performing discretionary function.** Performing or
8 failing to perform a discretionary function or duty, whether or
not the discretion is abused and whether or not any statute,
10 charter, ordinance, order, resolution or policy under which the
discretionary function or duty is performed is valid or invalid,
12 except that this subsection does not provide immunity for the
negligent operation of a motor vehicle directly involved in a
collision;

14

16 **SUMMARY**

18 This bill amends the Maine Tort Claims Act to provide that
discretionary function immunity does not apply to the negligent
20 operation of a motor vehicle that is directly involved in a
collision. This bill reverses the effect of the Maine Supreme
22 Judicial Court's majority decision in Norton v. Hall, 2003 ME
118, and is consistent with the dissenting opinion.