

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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Legislative Document

No. 843

H.P. 642

House of Representatives, February 23, 2007

**An Act To Provide Immunity from Tort Claims against the State of
New Hampshire Department of Transportation when Performing
Maintenance Operations within the State of Maine**

Submitted by the Department of Transportation pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SIMPSON of Auburn.
Cosponsored by Senator DAMON of Hancock.

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

2 **Sec. 1. 14 MRSA §171** is enacted to read:

3 **§171. Immunity for State of New Hampshire**

4 **1. Venue.** Claims against the State of New Hampshire, its employees or officials for
5 damages caused by New Hampshire's maintenance, construction, cleaning, clearing and
6 repair of public ways, state-owned railroads and other public transportation-related
7 facilities located in Maine must be brought in the Superior Court for the county where
8 one or more of the claimants reside or have a principal place of business, or where the
9 activity or property that is the subject of the proceeding is located. The court may grant a
10 change of venue for good cause shown.

11 **2. Damages cap.** Damages for any claim brought under subsection 1 are limited to
12 the cap on liability as expressed in New Hampshire's statutes that may be applicable to
13 claims or actions brought against New Hampshire within that state.

14 **3. Reciprocity.** The limitation of liability set out in this section applies only if New
15 Hampshire has enacted, no later than the date giving rise to the claim, a statute that
16 reciprocally limits Maine's liability for claims brought in New Hampshire.

17 **4. Limitation.** The limitation on recovery by an injured party or parties may not be
18 less than the limit expressed in section 8105.

19 **5. Statute of limitations.** A claim permitted under this section is barred from the
20 courts of this State unless an action in court is begun within 2 years after the cause of
21 action accrues, except that, if the claimant is a minor when the cause of action accrues,
22 the action may be brought within 2 years of the minor's attaining 18 years of age.

23 **SUMMARY**

24 This bill limits claims brought in Maine courts against the State of New Hampshire
25 for damages resulting from the maintenance, construction, cleaning, clearing and repair of
26 public highways, state-owned railroads and other public transportation facilities. This bill
27 limits damage awards to the cap on liability that would apply to the State of New
28 Hampshire if the claim had been brought in New Hampshire. The limitation on a
29 recovery may not be less than the tort liability limit expressed in the Maine Revised
30 Statutes, Title 14, section 8105.