

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1307

H.P. 910

House of Representatives, March 31, 2009

An Act To Provide Limited Immunity for Road Association Directors, Commissioners and Volunteers

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUCHESNE of Hudson.
Cosponsored by Senator GOODALL of Sagadahoc and
Representatives: EBERLE of South Portland, KNAPP of Gorham, Senator: NASS of York.

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

2 Sec. 1. 14 MRSA §172 is enacted to read:

3 **§172. Immunity for road association directors, commissioners and volunteers**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Commissioner" means a person who serves without compensation as the
7 commissioner of a road association, except that the person may be paid for expenses.

8 B. "Director" means a person who serves without compensation on the board of
9 directors of a road association, except that the person may be paid for expenses.

10 C. "Road association" means any organization formed for the purpose of repairing or
11 maintaining a private road, way or bridge under Title 13-B, section 403 or Title 23,
12 chapter 305, subchapter 2.

13 D. "Volunteer" means a person who provides services without compensation to a
14 road association, except that the person may be paid for expenses.

15 **2. Immunity.** A director, commissioner or volunteer is immune from civil liability
16 for personal injury, death or property damage, including any monetary loss:

17 A. When the cause of action sounds in negligence and arises from an act or omission
18 by the director, commissioner or volunteer that occurs within the course and scope of
19 the activities of the road association in which the director, commissioner or volunteer
20 serves; or

21 B. Arising from any act or omission that occurs within the course and scope of the
22 activities of the road association in which the director, commissioner or volunteer
23 serves and is not personal to the director, commissioner or volunteer.

24 **3. Exception for environmental violations.** Notwithstanding subsection 2, a
25 director, commissioner or volunteer is not immune from an enforcement action for a
26 violation of law under the jurisdiction of the Department of Environmental Protection.

27 **4. Limited waiver of immunity while operating vehicles.** Notwithstanding any
28 immunity granted in subsection 2, a director, commissioner or volunteer is considered to
29 have waived immunity from liability when the cause of action arises out of the director's,
30 commissioner's or volunteer's operation of a motor vehicle or other vehicle for which the
31 operator or the owner of the vehicle is required to possess an operator's license or
32 maintain insurance. The amount of damages in an action authorized by this subsection
33 may not exceed the combined limits of coverage of any applicable insurance policies
34 other than umbrella insurance coverage and the court shall abate a verdict in an action to
35 the extent that it exceeds such limits. A provision in a policy of insurance that attempts to
36 exclude coverage for a claim that is authorized by this subsection is void.

SUMMARY

This bill establishes immunity from civil liability for a director, commissioner or volunteer of a road association similar to the immunity afforded to charitable directors, officers and volunteers.