

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

of Taxation who may represent the State in court under this section as being familiar with court procedures.

This section is repealed on April 1, 1988.

Effective July 16, 1986.

CHAPTER 599

H.P. 1522 - L.D. 2142

AN ACT to Clarify the Applicability of the
Maine Tort Claims Act and to Limit the
Personal Liability of Governmental
Entity Employees.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, misunderstanding exists as to application of certain procedural provisions of the Maine Tort Claims Act to suits against governmental entity employees in certain circumstances; and

Whereas, this misunderstanding poses difficulties for governmental entity employees who may be sued and for claimants seeking to sue these employees; and

Whereas, immediately clarifying the applicability of these procedural provisions will benefit all potentially involved in suits against governmental entity employees; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 14 MRSA §8102, sub-§2-A is enacted to read:

2-A. Permitted by this chapter or permitted under this chapter. "Permitted by this chapter" or "permitted under this chapter," as applied to claims

or actions against a governmental entity or its employees, shall be construed to include all claims or actions expressly authorized by this Act against a governmental entity and all common law claims or actions against employees for which immunity is not expressly provided by this Act.

Sec. 2. 14 MRSA §8103, sub-§3, as enacted by PL 1977, c. 578, §1, is amended to read:

3. Personal liability; employee of a governmental entity. Except as otherwise expressly provided by section 8111 or by any other statute law, an employee of ~~the State~~ a governmental entity acting within the course and scope of his employment shall be personally liable for his negligent acts or omissions causing property damage, bodily injury or death in instances in which the ~~State~~ governmental entity is immune under this section only to a limit of \$10,000 for any and all such claims arising out of a single occurrence and shall not be liable for the amount in excess of that limit on any such claim.

Sec. 3. 14 MRSA §8116, 3rd ¶, as amended by PL 1977, c. 578, §5-A, is further amended to read:

The State A governmental entity may purchase insurance or may self-insure on behalf of its employees to insure them against any personal liability which they may incur out of or in the course and scope of their duties. The State A governmental entity shall purchase insurance or self-insure on behalf of its employees to insure them against their personal liability to the limit of their liability under section 8103, subsection 3 and, to the extent that ~~such~~ the insurance coverage is not available, shall assume the defense of and indemnify ~~such~~ those employees to the limit of their liability under section 8103, subsection 3.

Sec. 4. Effective date. Section 1 of this Act shall be retroactive to January 31, 1977.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.