

HOUSE BILL No. 5491

September 30, 2009, Introduced by Reps. Walsh, Stamas, Crawford, Roy Schmidt, Marleau, Calley, Horn, Lund, Wayne Schmidt, Haveman, Lori, Constan, Kowall, Hildenbrand, Knollenberg, Opsommer and LeBlanc and referred to the Committee on Judiciary.

A bill to amend 1964 PA 170, entitled

"An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers, employees, and volunteers and for paying damages sought or awarded against them; to provide for the legal defense of public officers, employees, and volunteers; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal acts and parts of acts,"

by amending section 2a (MCL 691.1402a), as added by 1999 PA 205.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2a. (1) Except as otherwise provided by this section, a
2 municipal corporation has no duty to repair or maintain, and is not

1 liable for injuries arising from, a portion of a county highway
2 outside of the improved portion of the highway designed for
3 vehicular travel, including a sidewalk, trailway, crosswalk, or
4 other installation. This subsection does not prevent or limit a
5 municipal corporation's liability if both of the following are
6 true:

7 (a) At least 30 days before the occurrence of the relevant
8 injury, death, or damage, the municipal corporation knew ~~or, in the~~
9 ~~exercise of reasonable diligence, should have known~~ of the
10 existence of a defect in a sidewalk, trailway, crosswalk, or other
11 installation outside of the improved portion of the highway
12 designed for vehicular travel.

13 (b) The defect described in subdivision (a) is a proximate
14 cause of the injury, death, or damage.

15 (2) A discontinuity defect of less than 2 inches creates a
16 rebuttable ~~inference~~ **PRESUMPTION** that the municipal corporation
17 maintained the sidewalk, trailway, crosswalk, or other installation
18 outside of the improved portion of the highway designed for
19 vehicular travel in reasonable repair.

20 (3) A municipal corporation's liability under subsection (1)
21 is limited by section 81131 of the natural resources and
22 environmental protection act, 1994 PA 451, MCL 324.81131.