



General Assembly

February Session, 2006

Raised Bill No.

620

LCO No. 2938



Referred to Committee on

Introduced by: **JUDICIARY**
(JUD)

AN ACT CONCERNING DANGEROUS STATE ROADWAYS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 13a-144 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to any cause of action accruing on or after July 1, 2005*):

4 (a) (1) Any person injured in person or property through the neglect
5 or default of the state or any of its employees by means of any
6 defective highway, bridge or sidewalk which it is the duty of the
7 Commissioner of Transportation to keep in repair, or by reason of the
8 lack of any railing or fence on the side of such bridge or part of such
9 road which may be raised above the adjoining ground so as to be
10 unsafe for travel or, in case of the death of any person by reason of any
11 such neglect or default, the executor or administrator of such person,
12 may bring a civil action to recover damages sustained thereby against
13 the commissioner in the Superior Court.

14 (2) Notwithstanding the provisions of subdivision (1) of this
15 subsection, if the person injured in person or property or the executor
16 or administrator of a person who died by reason of any such neglect or

17 default establishes that such neglect or default was based upon the fact
18 that (A) the condition of the highway, bridge or sidewalk was
19 unreasonably dangerous or defective, and (B) the commissioner had
20 notice of prior injuries to person or property or deaths occurring on
21 such highway, bridge or sidewalk as a result of such condition, the
22 state shall be liable for the payment of damages to such injured person
23 or such executor or administrator to the extent that such neglect or
24 default was a substantial factor in causing such injury or death. The
25 state shall be liable only for its proportionate share of damages and
26 any other party liable for negligence including the party bringing the
27 action shall be liable for its proportionate share of damages pursuant
28 to section 52-572h.

29 (b) No such action shall be brought except within two years from
30 the date of such injury, nor unless notice of such injury and a general
31 description of the same and of the cause thereof and of the time and
32 place of its occurrence has been given in writing within ninety days
33 thereafter to the commissioner. Such action shall be tried to the court
34 or jury, and such portion of the amount of the judgment rendered
35 therein as exceeds any amount paid to the plaintiff prior thereto under
36 insurance liability policies held by the state shall, upon the filing with
37 the Comptroller of a certified copy of such judgment, be paid by the
38 state out of the appropriation for the commissioner for repair of
39 highways; but no costs or judgment fee in any such action shall be
40 taxed against the defendant.

41 (c) This section shall not be construed so as to relieve any contractor
42 or other person, through whose neglect or default any such injury may
43 have occurred, from liability to the state; and, upon payment by the
44 Comptroller of any judgment rendered under the provisions of this
45 section, the state shall be subrogated to the rights of such injured
46 person to recover from any such contractor or other person an amount
47 equal to the judgment it has so paid.

48 (d) The commissioner, with the approval of the Attorney General

49 and the consent of the court before which any such action is pending,
50 may make an offer of judgment in settlement of any such claim.

51 (e) The commissioner and the state shall not be liable in damages for
52 injury to person or property when such injury occurred on any
53 highway or part thereof abandoned by the state or on any portion of a
54 highway not a state highway but connecting with or crossing a state
55 highway, which portion is not within the traveled portion of such state
56 highway.

57 (f) The requirement of notice specified in this section shall be
58 deemed complied with if an action is commenced, by a writ and
59 complaint setting forth the injury and a general description of the same
60 and of the cause thereof and of the time and place of its occurrence,
61 within the time limited for the giving of such notice.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to any cause of action accruing on or after July 1, 2005</i>	13a-144

Statement of Purpose:

To provide that a person injured or killed by reason of a defective state highway or bridge may recover damages from the state if the highway or bridge was unreasonably dangerous or defective and the state had notice of prior injuries or deaths occurring on that highway or bridge because of such dangerous or defective condition.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]