

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 121**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Insurance Policy March 29, 2007 with recommendation that House Committee Substitute for House Bill No. 121 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 537.600 and 537.610, RSMo, and to enact in lieu thereof two new sections relating to tort liability and immunity.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 537.600 and 537.610, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 537.600 and 537.610, to read as follows:

537.600. 1. Such sovereign or governmental tort immunity as existed at common law  
2 in this state prior to September 12, 1977, except to the extent waived, abrogated or modified by  
3 statutes in effect prior to that date, shall remain in full force and effect; except that, the immunity  
4 of the public entity from liability and suit for compensatory damages for negligent acts or  
5 omissions is hereby expressly waived in the following instances:

6 (1) Injuries directly resulting from the negligent acts or omissions by public employees  
7 arising out of the operation of motor vehicles or motorized vehicles within the course of their  
8 employment;

9 (2) Injuries caused by the condition of a public entity's property if the plaintiff establishes  
10 that the property was in dangerous condition at the time of the injury, that the injury directly  
11 resulted from the dangerous condition, that the dangerous condition created a reasonably  
12 foreseeable risk of harm of the kind of injury which was incurred, and that either a negligent or  
13 wrongful act or omission of an employee of the public entity within the course of his  
14 employment created the dangerous condition or a public entity had actual or constructive notice

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 of the dangerous condition in sufficient time prior to the injury to have taken measures to protect  
16 against the dangerous condition. In any action under this subdivision wherein a plaintiff alleges  
17 that he was damaged by the negligent, defective or dangerous design of a highway or road, which  
18 was designed and constructed prior to September 12, 1977, the public entity shall be entitled to  
19 a defense which shall be a complete bar to recovery whenever the public entity can prove by a  
20 preponderance of the evidence that the alleged negligent, defective, or dangerous design  
21 reasonably complied with highway and road design standards generally accepted at the time the  
22 road or highway was designed and constructed.

23         2. The express waiver of sovereign immunity in the instances specified in subdivisions  
24 (1) and (2) of subsection 1 of this section are absolute waivers of sovereign immunity in all cases  
25 within such situations whether or not the public entity was functioning in a governmental or  
26 proprietary capacity and whether or not the public entity is covered by a liability insurance for  
27 tort.

28         3. The term "public entity" as used in this section shall include any multistate compact  
29 agency created by a compact formed between this state and any other state which has been  
30 approved by the Congress of the United States **and any not-for-profit organization that**  
31 **provides or contracts for ambulance services pursuant to authority granted to such not-**  
32 **for-profit organization by a city, county, town, or village and of which a majority of the**  
33 **governing body consists of elected officials or individuals appointed by the mayor, board**  
34 **of alderman, city council, county commission, or county legislature. Such not-for-profit**  
35 **organization shall be entitled to sovereign or governmental tort immunity under sections**  
36 **537.600 to 537.650 as limited by such sections.**

537.610. 1. The commissioner of administration, through the purchasing division, and  
2 the governing body of each political subdivision of this state, notwithstanding any other  
3 provision of law, may purchase liability insurance for tort claims, made against the state or the  
4 political subdivision, but the maximum amount of such coverage shall not exceed two million  
5 dollars for all claims arising out of a single occurrence and shall not exceed three hundred  
6 thousand dollars for any one person in a single accident or occurrence, except for those claims  
7 governed by the provisions of the Missouri workers' compensation law, chapter 287, RSMo, and  
8 no amount in excess of the above limits shall be awarded or settled upon. Sovereign immunity  
9 for the state of Missouri and its political subdivisions is waived only to the maximum amount  
10 of and only for the purposes covered by such policy of insurance purchased pursuant to the  
11 provisions of this section and in such amount and for such purposes provided in any  
12 self-insurance plan duly adopted by the governing body of any political subdivision of the state.

13         2. The liability of the state and its public entities on claims within the scope of sections  
14 537.600 to 537.650, shall not exceed two million dollars for all claims arising out of a single

15 accident or occurrence and shall not exceed three hundred thousand dollars for any one person  
16 in a single accident or occurrence, except for those claims governed by the provisions of the  
17 Missouri workers' compensation law, chapter 287, RSMo.

18 **3. The liability of the state or its public entities and any officer, or employee of the**  
19 **state or its public entities arising out of the operation of a motor vehicle being operated**  
20 **within the course and scope of their office, employment or agency with the state or its**  
21 **public entities, shall not exceed two million dollars for all claims against all such entities**  
22 **or individuals arising out of a single accident or occurrence. When a claim against the**  
23 **state or one of its public entities arises out of the operation of a motor vehicle as described**  
24 **in subdivision (1) of subsection 1 of section 537.600 and a claim is also brought against an**  
25 **officer, or employee of the state or its public entities arising out of the same accident or**  
26 **occurrence, the maximum allowable recovery against the state, one of its public entities,**  
27 **or any officer, or employee of the state or its public entities shall be reduced by any amount**  
28 **paid towards the claim by the state, its public entities, officers, or employees of the same.**

29 **4. The liability of the state or its public entities and any officer, or employee of the**  
30 **state or its political entities arising out of any dangerous condition of property which the**  
31 **officer, or employee allegedly caused or contributed to cause, shall not exceed two million**  
32 **dollars for all claims against all such entities or individuals arising out of the single**  
33 **accident or occurrence, and shall not exceed three hundred thousand dollars for any one**  
34 **person in a single accident or occurrence. When a claim against the state or its public**  
35 **entities arises out of a dangerous condition of property as described in subdivision (2) of**  
36 **subsection 1 of section 537.600, and the claim is also brought against an officer, or**  
37 **employee of the state or its public entities for causing or contributing to cause the**  
38 **dangerous condition, then the maximum allowable recovery against the state or its public**  
39 **entities or any officer, or employee who allegedly caused or contributed to cause the**  
40 **dangerous condition shall be reduced by any amount paid toward the claim made by the**  
41 **state, its public entities, any officer, or employee of the state or its public entities.**

42 **5. The liability of the state or its public entities for operation of a motor vehicle is**  
43 **vicarious to the liability of the operator of the motor vehicle. Should the operator of the**  
44 **motor vehicle owned or operated on behalf of the state or its public entities be found to be**  
45 **immune from liability for operation of a motor vehicle because of official immunity or**  
46 **otherwise, the state or its public entities shall also have no liability arising from the**  
47 **operation of the motor vehicle.**

48 [3.] **6. No award for damages on any claim against a public entity within the scope of**  
49 **sections 537.600 to 537.650, shall include punitive or exemplary damages.**

50           [4.] 7. If the amount awarded to or settled upon multiple claimants exceeds two million  
51 dollars, any party may apply to any circuit court to apportion to each claimant his proper share  
52 of the total amount limited by subsection 1 of this section. The share apportioned each claimant  
53 shall be in the proportion that the ratio of the award or settlement made to him bears to the  
54 aggregate awards and settlements for all claims arising out of the accident or occurrence, but the  
55 share shall not exceed three hundred thousand dollars.

56           [5.] 8. The limitation on awards for liability provided for in this section shall be  
57 increased or decreased on an annual basis effective January first of each year in accordance with  
58 the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau  
59 of Economic Analysis of the United States Department of Commerce. The current value of the  
60 limitation shall be calculated by the director of the department of insurance, who shall furnish  
61 that value to the secretary of state, who shall publish such value in the Missouri Register as soon  
62 after each January first as practicable, but it shall otherwise be exempt from the provisions of  
63 section 536.021, RSMo.

64           [6.] 9. Any claim filed against any public entity under this section shall be subject to the  
65 penalties provided by supreme court rule 55.03.

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